

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. wencheng jian
Case No. D2022-3931

1. The Parties

The Complainant is Compagnie Générale des Etablissements Michelin, France, represented by Dreyfus & associés, France.

The Respondent is wencheng jian, China.

2. The Domain Name and Registrar

The disputed domain name <mixhelin.com> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 20, 2022. On October 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint (Privacy Protection). The Center sent an email communication to the Complainant on October 27, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 28, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 22, 2022.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on November 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is one of the leading tire companies. It operates in 170 countries, counts 117 production sites located in 26 countries, and 124,000 employees on a worldwide basis. Created in 1889, the Complainant has expanded its activities towards ancillary services meant to serve the needs of travelers. In 1920, it launched the Michelin Guide, which awards stars for fine dining establishments. In 2002, it launched ViaMichelin, meant to provide users all the useful information to prepare their trips, followed in the 2010's with the launch of the Michelin Restaurants, the Michelin Mobility Apps in 2013 which consist of a pack of six free applications meant to address the needs of travelers: Michelin MyCar, Michelin Navigation, ViaMichelin, Michelin Restaurants, Michelin Hotels, and Michelin Travel.

The Complainant with its subsidiary in North America is in particular the owner of the following trademark registrations:

- United States of America ("U.S.") device trademark MICHELIN No. 3684424, dated September 15, 2009, with a priority date as of August 31, 2007, duly renewed and covering goods in classes 3, 5, 7, 8, 9, 11, 12, 16, 27, and 28;
- U.S. word trademark MICHELIN No. 3329924, dated November 6, 2007, with a priority date as of April 29, 2004, duly renewed and covering goods in class 5;
- U.S. word trademark MICHELIN No. 5775734, dated June 11, 2019, with a priority date as of June 30, 2014, covering goods and services in classes 9, 39, and 42.

The Complainant and its subsidiary further own, among others, the following domain names:

- <Michelin.com>, registered on December 1, 1993;
- <Michelin.us>, registered on April 19, 2002.

On March 30, 2022, the Respondent registered the disputed domain name. The disputed domain name was initially redirecting to a parking page displaying sponsored links of various contents. Additionally, email servers were configured on it.

On April 5, 2022, the Complainant sent a cease and desist letter to the Respondent, asserting its trademark rights and requesting the transfer of the disputed domain name in its favor. In spite of several reminders, the Respondent did not respond.

Over the course of the monitoring of the disputed domain name, the Complainant noted changes in its redirection to various fraudulent pages, including a parking page with commercial links of various content, along with pages triggering security alerts, presenting a high risk to the Complainant and its customers.

On August 31, 2022, in order to stop the infringing use of the disputed domain name, the Complainant sent notifications to the registrar and hosting provider requesting the blocking of the disputed domain name and the deactivation of the fraudulent websites and the email servers; in vain.

At the time the Complaint was filed, the disputed domain name directed to an inactive page with no email servers configured, having seemingly been placed in status client hold.

5. Parties' Contentions

A. Complainant

The Complainant first contends that the disputed domain name is confusingly similar to its well-known trademark MICHELIN. It consists of a typical typoquatting case. The Respondent imitates the Complainant's trademark, as the letter "c" is replaced by the letter "x" in the middle of the sign, without adding any generic term that could reduce the similarity between the trademark and the disputed domain name.

The Complainant then affirms that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark. The Respondent is not commonly known by the disputed domain name or the name "Michelin". Moreover, the Respondent cannot assert that, before any notice of this dispute, it was using, or had made demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name used to redirect to various fraudulent websites, including a parking page displaying commercial links of various content, along with pages triggering security alerts, in an extremely damageable way to the Complainant's reputation. The fact that the Respondent did not respond to the Complainant's cease and desist letters and deliberately used a privacy shield service to hide his identity further highlights the fact that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant further considers that, given the Complainant's goodwill and reputation worldwide, and the nature of the disputed domain name which is confusingly similar to the Complainant's trademark, it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the disputed domain name, as it would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights.

Finally, the Complainant affirms that the disputed domain name was registered and is being used in bad faith. Taking into account the Complainant's trademark well-known character, it is implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name. In light of this knowledge, the Respondent used the disputed domain names to direct Internet users to a webpage displaying pay-per-clicks links which are likely to generate revenues, thus diverting Internet users and directing them to a webpage providing revenues through click. The use of a well-known trademark to attract Internet users to a website for commercial gains constitutes a use in bad faith pursuant to the policy.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant proves to hold several trademarks consisting of the word “michelin”. Prior Panels have recognized on numerous instances that the MICHELIN trademark had to be considered a well-known one (*Compagnie Générale des Etablissements Michelin v. World Industrial, LNQ*, WIPO Case No. [D2019-0553](#); *Compagnie Générale des Etablissements Michelin v. Kanoksak Puangkham*, WIPO Case No. [D2018-2331](#); *Compagnie Générale des Etablissements Michelin v. WhoisGuard, Inc., WhoisGuard 9 Protected / Saad Zaeem, Caramel Tech Studios*, WIPO Case No. [D2017-0234](#); *Compagnie Générale des Etablissements Michelin v. Oncu, Ibrahim Gonullu*, WIPO Case No. [D2014-1240](#); *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#); *Compagnie Générale des Etablissements Michelin v. Milan Kovac/Privacy--Protect.org*, WIPO Case No. [D2012-0634](#); *Compagnie Générale des Etablissements Michelin v. Vyacheslav Nechaev*, WIPO Case No. [D2012-0384](#); and *Compagnie Générale des Etablissements Michelin v. Cameron David Jackson*, WIPO Case No. [D2015-1671](#)).

UDRP panels widely agree that incorporating a trademark into a domain name can be sufficient to establish that the domain name is identical or confusingly similar to a registered trademark for purpose of the Policy (see, e.g., *Uniroyal Engineered Products, Inc. v. Nauga Network Services*, WIPO Case No. [D2000-0503](#); *Thaigem Global Marketing Limited v. Sanchai Aree*, WIPO Case No. [D2002-0358](#); and *F. Hoffmann-La Roche AG v. Relish Entreprises*, WIPO Case No. [D2007-1629](#)).

Such is the case here. Considering the fact that the Top-Level Domain may be disregarded under the first element confusing similarity test, the disputed domain name is a typosquatted version of the Complainant’s trademark, where the “c” has merely been replaced by an “x”, a difference obviously irrelevant to exclude the resulting confusing similarity between the disputed domain name and the Complainant’s trademark (section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

As a result, the Panel considers paragraph 4(a)(i) of the Policy to be satisfied.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant has to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

As the panel stated in *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#), demonstrating that the Respondent has no rights or legitimate interests in the domain name “would require complainant to prove a negative, a difficult, if not impossible, task”. Thus, in that decision, the panel opined that “[w]here a complainant has asserted that the respondent has no rights or legitimate interests in respect of the domain name, it is incumbent upon the respondent to come forward with concrete evidence rebutting this assertion”. Following that decision, subsequent UDRP panels acknowledged that it is deemed sufficient for a complainant to make a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name. Once a *prima facie* case has been made, the burden of production shifts to the respondent to come forward with evidence to demonstrate its rights or legitimate interests. If it fails to do so, the complainant is deemed to have satisfied to paragraph 4(a)(ii) of the Policy (see, e.g., section 2.1 [WIPO Overview 3.0](#)).

In the present case, the Complainant is the owner of several MICHELIN trademarks. The Complainant has no business or other relationships with the Respondent.

The Complainant thus has made a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name.

On his side, the Respondent has neither answered to the Complainant’s cease and desist letter, nor to the Complaint.

Considering the absence of a Response and the fact that the Respondent is neither commonly known by the disputed domain name, nor has made a legitimate noncommercial or fair use of the disputed domain name, the Panel finds that the Respondent has failed to demonstrate any rights to or legitimate interests in the disputed domain name.

Consequently, in light of the above, the Panel considers paragraph 4(a)(ii) of the Policy to be fulfilled.

C. Registered and Used in Bad Faith

For a complaint to succeed, a panel must be satisfied that a domain name has been registered and is being used in bad faith (Policy, paragraph 4(a)(iii)).

Bad faith requires the Respondent to be aware of the Complainant's trademarks. In the present case, the Complainant is the owner of numerous MICHELIN trademarks, which enjoy a worldwide reputation and amount to well-known trademarks as pointed out above.

Considering the worldwide reputation of these marks, it is inconceivable that the Respondent would have chosen and registered the disputed domain name without having been aware of the Complainant's trademarks. The Respondent, having neglected to participate in these proceedings, did not bring any evidence to support any good faith reason for such a choice; such evidence is not apparent from the record, and the Respondent has to bear the consequences of its default in that regard.

Previous Panels have considered that in the absence of any license or permission from a Complainant to use such widely known trademark, no actual or contemplated *bona fide* or legitimate use of the domain name could reasonably be claimed (*Alstom, Bouygues v. Webmaster*, WIPO Case No. [D2008-0281](#); *Guerlain S.A. v. Peikang* WIPO Case No. [D2000-0055](#)).

As the disputed domain name is confusingly similar to the Complainant's trademark, previous Panels have ruled that "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (*MasterCard International Incorporated ("MasterCard") v. Wavepass AS*, WIPO Case No. [D2012-1765](#); *Edmunds.com, Inc. v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

The disputed domain name clearly constitutes a typosquatting variant of the Complainant's mark MICHELIN. As held by previous UDRP panels a finding of typosquatting is sufficient to establish use and registration in bad faith (*Edmunds.com, Inc. v. Yingkun Guo, dba This domain name is 4 sale*, WIPO Case No. [D2006-0694](#); *Barnes & Noble College Bookstores, Inc. v. Oleg Techino*, WIPO Case No. [D2006-1537](#); and *FragranceX.com, Inc. v. Argosweb Corp a/k/a Oleg Techino in this name and under various aliases, WuWeb Pty Ltd, Alichec Inc., Belroots Pty Ltd, Crystal Image Pty Ltd, Elarson & Associates Pty Ltd, Lidnick Webcorp, Liquid SEO Limited, Loshedina Inc, Luchichang Pty Ltd, Netmilo Pty Ltd, Orel Hlasek LLC, Volchar Pty Ltd, Web Pescados LLC, Webatopia Marketing Limited, ZincFusion Limited, Chin-Hui Wu, Domain Administrator, Denholm Borg, Denesh Kumar, Marcelos Vainez, Alex Ovechkin, Vlad Obchikov*, WIPO Case No. [D2010-1237](#)).

Panels have held that the use of domain names to divert Internet users and to direct them to a webpage providing revenues through click to the Respondent evidences bad faith. Indeed, the Respondent is taking undue advantage of the Complainant's trademark to generate profits. The use of a well-known trademark to attract Internet users to a website for commercial gains constitutes a use in bad faith pursuant to the policy (*F Hoffmann-La Roche AG v. Anna Valdieri*, WIPO Case No. [D2007-0956](#); *L'Oréal SA v. LV Kefeng*, WIPO Case No. [D2009-1231](#), and *Alstom v. FM Laughna*, WIPO Case No. [D2007-1736](#)).

Consequently, the Panel finds that the disputed domain name <mixhelin.com> has been registered and is being used in bad faith under the paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <mixhelin.com> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: December 14, 2022