

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Milen Radumilo Case No. D2022-4573

1. The Parties

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

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 1, 2022, 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. The Center sent an email communication to the Complainant on December 2, 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 December 5, 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 December 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 6, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on January 13, 2023. 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 a leading tire company which is dedicated to designing and distributing suitable tires, services and solutions for its clients' needs, providing digital services, maps and guides and developing high-technology materials that serve the mobility industry.

Since 1889 the Complainant, which is headquartered in Cleremont-Ferrand, France, has innovated constantly to facilitate the mobility of people and goods. It began its activity in Romania, where the Respondent is domiciled, in August 2001 by acquiring two tire factories and building a third factory where it has produced millions of tires.

MICHELIN is a top selling tire brand worldwide and top source of innovation in the global tire industry.

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

United States of America Trademark Registration No. 3684424 MICHELIN and Device, registered on September 15, 2009 in classes 3, 5, 7, 8, 9, 11, 12, 16, 17, 20, 21, 24, 25 and 27;

European Union Trademark Registration No. 001791243 MICHELIN, filed on August 3, 2000 and registered on October 24, 2001, in classes 6, 7, 12, 17 and 28;

International Trademark Registration No. 771031 MICHELIN, dated June 11, 2001, in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42.

In addition, the Complainant and its subsidiary operate, among others, the following domain names which include the trademark MICHELIN to promote its services: <michelin.com>, registered on December 1, 1993 and <michelin.ro>, registered on April 16, 2007.

The Respondent registered the disputed domain name <mochelin.com> on April 13, 2022 which relocates to various websites including a parking page with commercial links displaying the Complainant's main field of activity.

5. Parties' Contentions

A. Complainant

The Complainant is present in 171 countries, has 114.000 employees and operates 69 tire manufacturing facilities. The Complainant is a leading tire company and MICHELIN the number 1 trademark worldwide for tires.

Since 1889, the Complainant has innovated constantly to facilitate the mobility of people and goods. It started its activity in Romania, where the Respondent is located, in August 2001 where it has over 4.400 employees and 3 tire factories.

The Complainant claims that the disputed domain name is confusingly similar with the trademark MICHELIN in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Complainant has not licensed the Respondent to use its trademark and there is no relationship between the Parties that would justify the registration of the disputed domain name by the Respondent.

Nothing suggests that the Respondent is commonly known by the disputed domain name. The disputed domain name redirects to various fraudulent websites, including a parking page displaying commercial links directly targeting the Complainant's main field of activity.

In addition, the following email server is configured on the disputed domain name: park-mx.above.com 103.224.212.241, increasing in that way the risk of potential phishing activity.

The Complainant sent a cease and desist letter to the Respondent requesting the free transfer of the disputed domain name to the Complainant before commencing this administrative proceeding which remained unanswered.

The disputed domain name imitates the Complainant's trademark MICHELIN which previous UDRP panels have considered to be "well-known" or "famous". Consequently, the Respondent could not have been unaware of the Complainant and its business when registering the disputed domain name.

The Complainant has noticed that the Respondent is a well-known cybersquatter that has been the subject of numerous UDRP proceedings, as detailed in the Complaint.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

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

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's MICHELIN trademark.

The disputed domain name <mochelin.com> incorporates the Complainant's trademark MICHELIN in its entirety with the only difference that the letter "i" has been replaced by the letter "o", which certainly does not prevent a finding of confusing similarity.

The “.com” generic Top-Level Domain (“gTLD”) is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark MICHELIN in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- the respondent (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proved that they are the owners of the MICHELIN mark. There is no indication that they have licensed or otherwise permitted the Respondent to use any of their trademark, nor have they permitted the Respondent to apply for or use any domain name incorporating their mark.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

Moreover, the Panel finds that the nature of the disputed domain name, incorporating the Complainant's mark almost in its entirety with a sole common misspelling (substituting of the letter “i” for the letter “o”), points to an intention to confuse Internet users seeking for or expecting the Complainant. The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trade name and famous trademarks MICHELIN mentioned in section 4 above (Factual Background) and also the Complainant's domain names <michelin.com> and <michelin.ro> when it registered the disputed domain name <mochelin.com>.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant's famous trademark MICHELIN and replacing the letter "i" by the letter "o", which makes this a typical "typosquatting" case, with the intention to confuse Internet users and capitalize on the fame of the Complainant's trade name and trademarks for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name to resolve to a websites with links to companies possibly competing with the Complainant, the Respondent's failure to respond the cease and desist letter sent by the Complainant in an attempt to solve the dispute amicably are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <mochelin.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: January 18, 2023