

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. anhui anhui, anhui
Case No. D2022-4716

1. The Parties

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

The Respondent is anhui anhui, anhui, China.

2. The Domain Name and Registrar

The disputed domain name <voamichelin.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 8, 2022. On December 9 and 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 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 19, 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 23, 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 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 17, 2023.

The Center appointed Ezgi Baklacı Gülkökar as the sole panelist in this matter on January 25, 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, Compagnie Générale des Etablissements Michelin headquartered in France, is a tire company active in 170 countries, distributes tires, services and solutions for its customers as well as providing digital services, maps, and guides. The Complainant has set up ViaMichelin to develop digital services for travel assistance in 2001. The Complainant under ViaMichelin brand provides mapping, route plans, on-line hotel booking, Michelin Guide hotel, restaurant recommendations, weather and traffic reports which are accessible through digital channels.

The Complainant owns numerous trademarks for the stand-alone MICHELIN trademark, *inter alia* MICHELIN (China, App. No. 15961294) registered on March 07, 2016, in classes 8, 35, 38, 39, 41, and 42, MICHELIN device (China, App. No. 10757563), registered on June 21, 2013, in class 03, MICHELIN (figurative) (International Registration (“IR”): 771031), registered on June 11, 2001 in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42,; MICHELIN (IR: 1245891), registered on December 10, 2014, in classes 35, 36, 39, 40, 41, 42, 44, and 45,.

In addition, the Complainant owns domain name registrations containing the trademark MICHELIN including <viamichelin.com> which was registered on November 7, 2000.

The disputed domain name was registered on September 24, 2021. As of the date of this Decision and at filing of the Complaint, the disputed domain name is not resolving to an active website. For a period the disputed domain name resolved to a Chinese website related to online betting.

5. Parties’ Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name is confusingly similar to the Complainant’s registered and well-known trademark MICHELIN because it consists of its trademark MICHELIN in its entirety as well as the term “voa” which is a misspelling of the term “via” which is a case of typosquatting. The Complainant argues that the generic Top-Level Gomain (“gTLD”) “.com” should not be considered in examination of the confusing similarity.

Rights or legitimate interests

The Complainant argues that the Respondent is not affiliated with the Complainant or authorized to use its trademark. Therefore, the Respondent has no prior rights or legitimate interests in the disputed domain name. Further, the Complainant argues that the fact that the disputed domain name used to be directed to a Chinese website related to online betting, and at the time when the complaint filed resolves to an inactive website does not represent a *bona fide* offering of goods and services.

The disputed domain name was registered and used in bad faith.

The Complainant claims that the Respondent is aware or should have known about the Complainant and its well-known trademarks which clearly predate the registration date of the disputed domain name. Further,

the Complainant argues that the Respondent's choice of registering a domain name, which is confusingly similar to the trademark MICHELIN and the official domain name <viamichelin.com> is an example of typosquatting which itself should be considered as a sign of bad faith.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

A. Identical or Confusingly Similar

The Complainant has demonstrated that it has well-established rights in its well-known MICHELIN trademarks. Further, the Complainant holds the domain name <viamichelin.com>, which was registered on November 7, 2000, according to the Whois extracts submitted within Annex 5 of the Complaint.

The disputed domain name consists of the registered trademark MICHELIN and the additional element "voa". However, such addition does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name. The Panel finds that the disputed domain name is confusingly similar to the registered trademark MICHELIN. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7).

In similar cases, previous panels considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity ([WIPO Overview 3.0](#), section 1.8). Moreover, the disputed domain name was found similar with the Complainant's trademarks in an earlier UDRP decision (*Compagnie Generale des Etablissements Michelin, Michelin et Cie, Michelin Recherche et Technique S.A. v. Alvaro Collazo*, WIPO Case No. [D2004-1095](#)).

Further, the Panel finds that the additional element "voa" in the disputed domain name is a misspelling of "via", under which the Complainant provides services under. The Panel finds that the replacement of the letters "i" and "o" does not prevent a finding of confusing similarity of the disputed domain name with the Complainant's trademark, and it is an example of typosquatting.

Moreover, the gTLD ".com" in the disputed domain name is usually disregarded under the confusing similarity test, as it does not form part of the comparison as they are required for technical reasons ([WIPO Overview 3.0](#), section 1.11).

The Panel is in the view that the disputed domain name is confusingly similar to the Complainant's trademarks and the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

The Panel notes that there is no evidence showing that the Respondent holds any rights for MICHELIN. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the trademark MICHELIN. The Respondent has not demonstrated any preparations to use, or has not used the disputed domain name in connection with a *bona fide* offering of goods or services.

As of the date of this decision, the disputed domain name does not resolve to an active website. However, the evidence submitted by the Complainant in Annex 1 indicates that, the disputed domain name, earlier resolved to a Chinese online betting website. The Panel finds that use of the disputed domain name cannot amount to a *bona fide* offering of goods and services or a legitimate noncommercial or fair use.

The Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant’s *prima facie* case.

Therefore, the Panel finds that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s trademark ([WIPO Overview 3.0](#), section 3.1).

The Panel finds that at the time the disputed domain name was registered, the Respondent more likely than not was aware of the trademark MICHELIN, as the Complainant’s trademark registrations as well as its domain names predate the registration date of the disputed domain name. The Respondent knew or should have known about the Complainant’s rights, and such information can be reached by a quick online search (see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

Further, the Panel finds that the Respondent when registering the disputed domain name, has targeted the Complainant’s well-known trademark and its domain name is a typical act of typosquatting. Paragraph 4(b) of the Policy provides a non-exhaustive list of bad faith cases and use of a domain name. The fact that the Respondent registers a domain name which consist of the misspelled letters of the Complainant’s domain name considered within the scope of paragraph 4(b)(iv) of the Policy. Earlier panels have found typosquatting itself evidence of bad faith” (*National Association of Professional Baseball Leagues, Inc., d/b/a Minor League Baseball v. John Zuccarini*, WIPO Case No. [D2002-1011](#)).

In the circumstances, the Panel finds that the Respondent registered and has been using the disputed domain name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <voamichelin.com>, be transferred to the Complainant.

/Ezgi Baklacı Gülkökar/

Ezgi Baklacı Gülkökar

Sole Panelist

Date: February 1, 2023