

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Forrest Bailey Case No. D2023-0524

1. The Parties

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

The Respondent is Forrest Bailey, United States of America (“US”).

2. The Domain Name and Registrar

The disputed domain name <viamichelin.xyz> is registered with Sav.com, LLC – 41 (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 3, 2023. On February 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 6, 2023, 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 (Privacy Protection) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 2023, 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 February 10, 2023.

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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on March 20, 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.

The Registrar has confirmed that the language for the Registration Agreement is English. Therefore, the language of the present administrative proceeding is English in accordance with paragraph 11(a) of the Rules.

4. Factual Background

The Complainant, Compagnie Générale des Etablissements Michelin (“Michelin”), is a leading company for tires, which is dedicated to enhancing its clients’ mobility, sustainably, designing and distributing the most suitable tires, services, and solutions for its clients’ needs, providing digital services, maps and guides to help enrich trips and travels and make them unique experiences, and developing high-technology materials that serve the mobility industry.

The Complainant’s headquarter is in Clermont-Ferrand, France. The Complainant is present in 170 countries, and has more than 124,000 employees, and operates 117 tire manufacturing facilities and sales agencies in 26 countries.

Since 1889, the Complainant has innovated constantly to facilitate the mobility of people and goods, thus contributing to the advancement of human progress. Today, the Michelin Group is the leader in tire technology for every type of vehicle, leveraging its expertise in high-tech materials to deliver services and solutions that increase travel efficiency and products that enable customers to enjoy unique mobility experiences. The Michelin brand is the top-selling tire brand worldwide and it is the top source of innovation in the global tire industry.

The Complainant and its MICHELIN trademarks enjoy a worldwide reputation. The Complainant owns numerous MICHELIN trademark registrations around the world, including the US trademark MICHELIN No. 3329924, registered on November 6, 2007.

In addition, the Complainant operates, among others, domain names reflecting its trademarks such as <michelin.com> registered on December 1, 1993, and <viamichelein.com> registered on November 7, 2000.

The disputed domain name was registered on November 1, 2022. The disputed domain name resolves to the marketplace Dan.com, offering it for sale.

5. Parties’ Contentions

A. Complainant

The Complainant is a leading tire company, number 1 worldwide for tires, and its MICHELIN trademarks enjoy a worldwide reputation. The Complainant owns numerous MICHELIN trademark registrations around the world.

In 2001, the Complainant set up the subsidiary ViaMichelin to develop digital services for travel assistance. These free services give users all the useful information they need to prepare their trips.

Following its presence in the market for maps and tourist guides with the Michelin Guide and Michelin maps, the Michelin Group decided to offer under the name ViaMichelin, a wide range of services to both the general public and the business sector including mapping, route plans, on-line hotel booking, Michelin Guide hotel, restaurant and seven tourist recommendations and weather and traffic reports. These services are available across a range of digital channels including the Internet, mobile handsets, and personal navigation devices.

Digital services were developed in the 2010’s, with the launch of the Michelin Restaurants website in 2012, and of the Michelin Mobility Apps in 2013. This package of six free apps met the needs of travelers in all

their travels: Michelin MyCar, Michelin Navigation, ViaMichelin, Michelin Restaurants, Michelin Hotels and Michelin Travel. In 2015, ViaMichelin was deployed in 13 countries.

The Complainant's main website for its ViaMichelin services is available at "www.viamichelin.com".

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

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

A. Identical or Confusingly Similar

Based on the facts presented by the Complainant, this Panel finds that the Complainant has established its rights in MICHELIN through registration and use. The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark, as the disputed domain name includes the Complainant's mark in full, with only the addition of the word "via", to the Complainant's trademark, which does not prevent a finding of confusing similarity (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel therefore finds that the Complainant has established the first requirement under the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant and has no authorization to use any of the Complainant's trademarks. The disputed domain name resolves to the marketplace Dan.com, offering it for sale.

There is no evidence on record showing that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record showing that 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 Complainant's trademark.

The nature of the disputed domain name, incorporating the Complainant's trademark with an additional term related to the Complainant's field of activity, in particular its digital travel assistance products and services for road users offered under the name ViaMichelin, carries a risk of implied affiliation, as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Respondent has registered and used the disputed domain name for resolving it to the marketplace Dan.com, offering it for sale for the purpose of selling, transferring the disputed domain name to the Complainant who is the owner of the trademark or to a competitor of the Complainant, for valuable consideration possibly in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name.

The Complainant's trademark was registered well before the registration of the disputed domain name, and it is evident from the composition of the disputed domain name that the Respondent must have known of the Complainant's MICHELIN trademark when registering the disputed domain name.

Furthermore, the Complainant's MICHELIN trademark is well known. It is therefore beyond the realm of coincidence that the Respondent chose the disputed domain name without the intention of invoking a misleading association with the Complainant.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under the Policy, paragraph 4(a)(iii).

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 <viamichelin.xyz> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: April 3, 2023