

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Michelle Stanziola,
Michelin Store

Case No. D2023-1008

1. The Parties

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

The Respondent is Michelle Stanziola, Michelin Store, Panama.

2. The Domain Name and Registrar

The disputed domain name <michellinstore.com> is registered with Arsys Internet, S.L. dba NICLINE.COM (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 7, 2023. On March 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 (redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 14, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same date, the Complainant filed an amended Complaint in English.

On April 14, 2023, the Center informed the parties in Spanish and English, that the language of the registration agreement for the disputed domain name is Spanish. On the same date, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 April 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 9, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on May 15, 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 company in the tires sector operating since 1889, headquartered in Clermont-Ferrand, France. It is best known for the manufacture and commercialization under the trademark MICHELIN of tires for a range of vehicles. It further publishes travel guides, hotel and restaurant guides, maps and road atlases, as well as offers electronic mobility support services and other related services. Per the Complaint, the Complainant is present in more than 170 countries worldwide, has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries; the MICHELIN Guides rate over 30,000 establishments in over 30 territories across three continents, and more than 30 million MICHELIN Guides have been sold worldwide.

The Complainant holds numerous trademark registrations throughout the world for the MICHELIN brand, including Panama Trademark Registration No. 39677, MICHELIN, registered on August 04, 1986, in class 12, and International Trademark Registration No. 771031, MICHELIN, registered on June 11, 2001, in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42. These trademarks will hereby collectively be referred to as "the MICHELIN mark".

Prior decisions under the Policy have recognized the international reputation of the MICHELIN mark.¹

The Complainant further owns various domain names reflecting the MICHELIN mark, which are used to promote its goods and services, including <michelin.com> (registered on December 1, 1993), and <michelinstore.com> (registered on March 16, 2003).

The disputed domain name was registered on February 28, 2020, and it resolves to a landing page that includes an alert message indicating, "Site not found. This site is not published or does not have a domain assigned to it. If you have any questions, please contact your website administrator." Further, according to the Complainant's allegations, the disputed domain name has been used to configure two email servers.

On January 5, 2023, the Complainant sent a cease and desist communication to the Respondent through the Registrar platform, followed by several subsequent reminders with no response.

¹ See among others *Compagnie Générale des Etablissements MICHELIN-MICHELIN & Cie v. Mr Kristian Marjin van Wezel*, WIPO Case No. [D2001-0598](#); *Compagnie Générale des Etablissements Michelin v. PrivacyDotLink Customer 1197652 / Alex Hvorost*, WIPO Case No. [D2016-1923](#); *Compagnie Générale des Etablissements Michelin v. Vasilii Polkover / Privacy Protection*, WIPO Case No. [D2017-0057](#); *Compagnie Générale des Etablissements Michelin v. Contact Privacy Inc. Customer 124896988 / Mingyan Li, Michelin motorsport APAC*, WIPO Case No. [D2018-1557](#); and *Compagnie Générale des Etablissements Michelin v. 余姗姗 (She Shan Shan), 上海凯宁进出口有限公司 (Shang Hai Kai Ning Jin Chu Kou You Xian Gong Si)*, WIPO Case No. [D2021-0255](#).

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain name is confusingly similar to the reputed MICHELIN mark. The disputed domain name reproduces the MICHELIN mark with an additional letter "I" and the term "store". The adjunction of an additional letter "I" does not significantly affect the appearance or pronunciation of the disputed domain name, and constitutes a common, obvious, or intentional misspelling of the Complainant's trademark, a "typosquatting". The addition of a term does not prevent a finding of confusing similarity, and the generic Top-Level Domain ("gTLD") ".com" is not to be taken into consideration.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is neither commonly known by the name "michelin" (or "michellin"), nor affiliated with the Complainant and has not been authorized to use the MICHELIN mark. The disputed domain name resolves to an error page. The Respondent has not made any reasonable and demonstrable preparations to use the disputed domain name, and due to the confusingly similarity with the famous MICHELIN mark the Respondent cannot reasonably pretend to have the intention to develop a legitimate activity through the disputed domain name. As email servers have been configured on the disputed domain name, there is a risk that the Respondent is engaged in a phishing scheme. The Respondent never answered to the Complainant's cease and desist communications.

The disputed domain name was registered and is being used in bad faith. Due to the reputation of the MICHELIN mark, the Respondent knew or should have known of this trademarks and, nevertheless, registered the disputed domain name with no rights or legitimate interests. The Respondent imitation of the MICHELIN mark and of the Complainant's domain name <michelinstore.com> proves his bad faith. Any trademark search and any search over the Internet reveals the existence of the Complainant and its trademark, so the failure to conduct such searches corroborates the Respondent's bad faith. Typosquatting is in itself evidence of bad faith. The nonuse of the disputed domain name demonstrates the Respondent's lack of legitimate interests and does not preclude a finding of bad faith under the doctrine of passive holding. Additionally, the disputed domain name has been used to configure email servers, which implies a risk that the Respondent engaged in a phishing scheme.

The Complainant has cited previous decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Preliminary Issue: Language of the Proceedings

The language of the registration agreement is Spanish.

The Complainant requested English to be the language of the proceedings as it does not understand Spanish, and having to translate the Complaint and all its annexes into Spanish would be an excessive burden and would delay the proceeding. The Respondent did not reply to the Complaint and did not comment on the language of the proceedings.

Under these circumstances, the Panel finds that it would be unfair and disproportionate to require the Complainant to translate and submit the Complaint and all evidence in Spanish. Therefore, according to paragraph 11(a) of the Rules, the Panel determines English to be the language of the proceedings.

B. Identical or Confusingly Similar

The Complainant indisputably has rights in the registered trademark MICHELIN, both by virtue of its trademark registrations for this mark, and as a result of its continuous use of this trademark over more than a century (since 1889).

The disputed domain name incorporates the MICHELIN mark in its entirety with an additional letter “l”, forming a double “ll” instead of a single letter “l”, which may be considered a common, obvious, or intentional misspelling that may easily go unnoticed not avoiding the direct perception of the trademark, and the term “store”. The Complainant’s trademark MICHELIN is recognizable in the disputed domain name, and the gTLD “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, 1.9, and 1.11, [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

C. Rights or Legitimate Interests

The Complainant’s assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name (providing the circumstances of paragraph 4(c) of the Policy, without limitation), in order to rebut the Complainant’s *prima facie* case. See section 2.1, [WIPO Overview 3.0](#).

However, the Respondent has not replied to the Complainant’s contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that the Complainant has constructed a *prima facie* case evidencing that the Respondent has not been authorized to use the MICHELIN mark, there is no relationship between the Parties, and the disputed domain name has not been used in connection to a *bona fide* offering of goods or services.

The Panel, under its general powers, has further corroborated through a search over the public Global Brand Database that the Respondent does not own any registered trademark corresponding to the disputed domain name or to the terms “michelin”, “michellin”, or “michellin store”.

The Panel further notes that the disputed domain name generates an affiliation with the Complainant’s trademark. The fact that the disputed domain name incorporates the MICHELIN mark with a common, obvious, or intentional misspelling, and the fact that the disputed domain name is almost identical to the

Complainant's domain name <michelinstore.com>, generates an implied affiliation that suggests that the disputed domain name may be equally owned or sponsored by the Complainant.

The Panel has further corroborated that, after more than three years of its registration, the disputed domain name resolves to an alert page indicating that the "site is not found". This circumstance together with the use of a misspelling of the reputed trademark MICHELIN, and the configuration, according to the Complainant's allegations and evidence, of email servers over the disputed domain name, indicates, in balance of probabilities, that the disputed domain name may be used in any type of phishing scheme, which can never confer rights or legitimate interests on the Respondent. See section 2.13, [WIPO Overview 3.0](#).

It is further remarkable that the Respondent has chosen not to reply to the Complaint, not providing any evidence of any rights or legitimate interests in the disputed domain name.

Therefore, the circumstances of this case lead the Panel to conclude that nothing in the case file gives any reason to believe that the Respondent has any rights or legitimate interests in respect of the disputed domain name, and the second element of the Policy under paragraph 4(a)(ii) has been established.

D. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establishes that the disputed domain name has been registered and is being used in bad faith.

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the MICHELIN mark is worldwide famous, and has strong presence over the Internet, so that any search over the Internet reveals the Complainant and its trademark;
- (ii) the disputed domain name incorporates the MICHELIN mark with a common misspelling (and additional letter "l") and a term ("store"), denoting a risk of confusion or implied association, and creating the impression that the disputed domain name is owned or sponsored by the Complainant;
- (iii) the disputed domain name is further almost identical to the Complainant's domain name <michelinstore.com>;
- (iv) after more than three years of its registration, the disputed domain name resolves to an alert landing page that indicates that the "site is not found", and, according to the Complainant's allegations, it has been used to configure servers over the disputed domain name; and
- (v) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith, choosing not to reply to the Complainant's cease and desist letter or to the Complaint.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered and has been used targeting the Complainant's reputed trademark in bad faith, in an effort to take unfair advantage of its reputation by creating a false affiliation to this brand for a commercial gain, which constitutes bad faith under the Policy.

The Panel further finds that the circumstances of this case, in a balance of probabilities, indicate that the disputed domain name may have been used or intended to be used in any type of phishing scheme. In addition, the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain name was registered and used in bad faith.

Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and used the disputed domain name in bad faith under the third element 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 <michellinstore.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: May 23, 2023