

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Second Second Case No. D2024-2299

1. The Parties

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

The Respondent is Second Second, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <michelinparts.com> is registered with Wild West Domains, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 5, 2024. On June 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 2024, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 2024, 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 June 12, 2024.

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 June 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 8, 2024.

The Center appointed Stefan Bojovic as the sole panelist in this matter on July 12, 2024. 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 with headquarters in France and is present in 170 countries. The Complainant employs more than 124,000 people and operates 117 tire manufacturing facilities and sales agencies in 26 countries. The Complainant started operating under the name Michelin in 1889 and since 1920, the Complainant has also produced MICHELIN guides, to help tourists find appropriate accommodation and restaurant facilities.

The Complainant owns numerous trademark registrations for MICHELIN including the following:

- International trademark registration number 348615 for the MICHELIN word mark, registered on July 24, 1968, and covering goods in classes 1, 6, 7, 8, 9, 12, 16, 17, and 20;
- International trademark registration number 492879 for the MICHELIN word mark, registered on May 10, 1985, and covering goods in class 12; and
- United States trademark registration number 3329924 for the MICHELIN word/device mark, registered on November 6, 2007, and covering services in class 39.

In addition, the Complainant owns several domain names that reflect its trademarks, including <michelin.com> registered on December 1, 1993.

The disputed domain name was registered on May 7, 2024, and it resolves to an inactive page. However, according to the evidence provided by the Complainant, the Respondent used the disputed domain name to perpetuate a phishing scam and fraud in which the Respondent used emails purportedly emanating from the Complainant's employee in order to request the vendor ACH (Automated Clearing House) electronic update forms. The Respondent used the disputed domain name to create the "[...]@michelinparts.com" email address to impersonate Complainant's employee and request update of payment information from the Complainant's customers. The Respondent also uses the name, address and contact details of the Complainant's North American subsidiary in the signature of these emails.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its well-known MICHELIN trademark. In particular, the disputed domain name contains MICHELIN trademark in its entirety in combination with the term "parts" which does not prevent confusion.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that the Respondent has no rights in MICHELIN name or trademark, nor it has been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating this trademark. The Respondent is also not commonly known by the disputed domain name. Finally, the Respondent has used the disputed domain name for phishing scheme impersonating the Complainant and one of its employees in order to defraud the Complainant's customers. Such a use of the disputed domain name further demonstrates that the Respondent lacks legitimate interest or rights regarding the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant states that the sign MICHELIN is well-known throughout the world (as indicated by a number of prior UDRP panels) making it unlikely that Respondent was not aware of Complainant's rights. The composition of the disputed domain name that consists of MICHELIN trademark in combination with word "parts" (corresponding to the Complainant's field of business) indicates that the Respondent was aware of the Complainant and its trademark. Furthermore, the fact that the disputed domain name was used for sending phishing emails and impersonation of the Complainant and its employee, clearly demonstrates bad faith on the Respondent's side.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall 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." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

- (i) that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term "parts" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In addition, it is well established that ".com", as a generic Top-Level Domain ("gTLD"), can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark. [WIPO Overview 3.0](#), section 1.11.1.

The Panel, therefore, finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s MICHELIN trademark. There appears to be no element from which the Panel could infer the Respondent’s rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel further finds that the use of the disputed domain name for sending phishing emails impersonating the Complainant and its employee under no circumstances can constitute a bona fide offering of goods or services or a legitimate, noncommercial use of the disputed domain name under the Policy.

Panels have held that the use of a domain name for illegal activity, i.e. phishing emails and impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having in mind the above, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Complainant’s MICHELIN trademark enjoys substantial reputation throughout the world and that the Complainant’s trademarks were registered long before the registration of the disputed domain name. The composition of the disputed domain name (which includes word “parts” that corresponds to the Complainant’s field of business), suggests that the Respondent was aware of the Complainant and its MICHELIN trademark at the time of the registration of the disputed domain name. Finally, based on the available evidence, the Panel holds that the Respondent has registered the disputed domain name for the purpose of perpetrating an email phishing scheme, which indicates that the Respondent was perfectly aware of the Complainant and its activities (including the information about its subsidiaries and employees).

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

In the case at hand, the Complainant has produced undisputed evidence of phishing emails sent by the Respondent in which the identity of the Complainant's employee, name, address and contact details of its North American subsidiary were used in order to impersonate the Complainant. Furthermore, the emails sent from the Respondent requesting the Complainant's customers to provide the vendor ACH (Automated Clearing House) electronic update forms with likely purpose of shifting monetary transactions to a bank account controlled by the Respondent. Such use of the disputed domain name is in clear controversy with the Policy and panels have held that the use of a domain name for illegal activity (in this case, phishing emails and impersonation) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In accordance with the above, the Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently that the Complainant has established 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 <michelinparts.com> be transferred to the Complainant.

/Stefan Bojovic/

Stefan Bojovic

Sole Panelist

Date: July 26, 2024