

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Lynn Lim
Case No. D2024-2318

1. The Parties

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

The Respondent is Lynn Lim, Malaysia.

2. The Domain Names and Registrar

The disputed domain names <michelin88.asia>, <michelin88.com> and <michelin88.net> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2024. On June 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 10, 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 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 9, 2024.

The Center appointed Rebecca Slater as the sole panelist in this matter on July 11, 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 founded in 1889. It is headquartered in France and present in over 160 countries. The MICHELIN brand is the top-rated tire brand worldwide. The Complainant also produces the best-selling MICHELIN Guides, which rate over 30,000 establishments across three continents. Over 30 million MICHELIN Guides have been sold worldwide since 1920.

The Complainant has a portfolio of registrations for the MICHELIN word mark, including International Trade Mark No. 771031 (registered June 11, 2001) and International Trade Mark No. 740073 (registered August 8, 2000) (the "Trade Mark").

The Complainant is also the registrant of the <michelin.com> domain name (registered December 1, 1993).

The Respondent is an individual named Lynn Lim apparently located in Malaysia. The Respondent did not submit a formal response, and consequently little information is known about the Respondent.

The Respondent registered the disputed domain names on May 7, 2024.

The disputed domain name <michelin88.com> directs Internet users to a website site that features the Trade Mark and Complainant's logo to promote gambling and casino activities. The other disputed domain names (<michelin88.net> and <michelin88.asia>) currently resolve to an index page.

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 names.

Notably, the Complainant contends that:

- The disputed domain names are confusingly similar to the Trade Mark. They consist of the entirety of Trade Mark preceded followed by the number "88".
- The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to use the Trade Mark. The website at the disputed domain name <michelin88.com> fraudulently promotes gambling and casino activities using the Trade Mark and the other disputed domain names (<michelin88.net> and <michelin88.asia>) resolve to an index page. None of these are a bona fide offering of goods or services.
- The disputed domain names were registered and are being used in bad faith by the Respondent. It is implausible that the Respondent was unaware of the Complainant and the Trade Mark when the Respondent registered the disputed domain names. The Respondent registered the disputed domain names to attract Internet users to websites for commercial gain, by creating a likelihood of confusion with the Trade Mark as to the source, sponsorship, affiliation or endorsement of the websites. The website at the <michelin88.com> disputed domain name is fraudulent and reproduces the Trade Mark and the Complainant's logo in order to mislead Internet users into thinking the website is operated by the Complainant.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are being used in bad faith.

The onus of providing these elements is on the Complainant.

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 Trade Mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the number "88" may bear on assessment of the second and third elements, the Panel finds the addition of this number does not prevent a finding of confusing similarity between the disputed domain names and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Complainant has not authorized the Respondent to use the Trade Mark and there is no evidence that the Respondent has ever been known by any of the disputed domain names. Additionally, the Respondent is not an authorized dealer of the Complainant and has never had any form of business relationship with the Complainant.

In relation to the <michelin88.com> disputed domain name, panels have held that the use of a domain name for illegal activity such as impersonation or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Under paragraph 4(b)(iv) of the Policy, there is evidence of registration and use of the disputed domain name in bad faith where a respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Panel finds it highly unlikely that the disputed domain names were registered without knowledge of the Complainant and the Trade Mark, given the significant worldwide reputation of the Complainant. The Respondent's goal in registering and using the disputed domain names appears to be to attract Internet users for potential gain. This finding is reinforced by the Respondent's use of the <michelin88.com> disputed domain name to host a website that features the Trade Mark and the Complainant's logo.

In respect of the <michelin88.com> disputed domain name, panels have held that the use of a domain name for illegal activity such as impersonation or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In respect of the other disputed domain names (<michelin88.net> and <michelin88.asia>) which resolve to an index page, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's Trade Mark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel finds 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 names <michelin88.asia>, <michelin88.com> and <michelin88.net> be transferred to the Complainant.

/Rebecca Slater/

Rebecca Slater

Sole Panelist

Date: July 25, 2024