

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Ramin Mollasharifi
Case No. DIR2022-0023

1. The Parties

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

The Respondent is Ramin Mollasharifi, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <michelintyres.ir> is registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 12, 2022. On December 12, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On December 20, 2022, IRNIC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .ir Domain Name Dispute Resolution Policy (the “Policy” or “irDRP”), the Rules for .ir Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .ir Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 22, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was December 11, 2023. On January 12, 2023, the Center notified the Respondent’s default.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on January 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.

4. Factual Background

The Complainant is a leading tire company, number one worldwide for tires and it ranks among the world's leading brands. It has been present in the Middle East for more than 30 years. It is the owner of the trademark MICHELIN, registered in many countries all over the world including as the International Registration No 771031, dated June 11, 2001 and designating several countries, namely China, Romania, Russian Federation, Spain, United Kingdom and Viet Nam.

The disputed domain name was registered on November 30, 2020 and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's trademark because it produces the Complainant's trademark in its entirety combining it with the descriptive word "tyres", which does not prevent the finding of confusing similarity between the Complainant's trademark and the disputed domain name.

The Respondent is not affiliated with the Complainant and has not been authorized to use the disputed domain name. Furthermore, the Respondent has no rights or legitimate interests to the disputed domain name. The disputed domain name also resolves to an inactive website and the Respondent did not reply to the Complainant's pre-complaint correspondence. Considering the similarity of the disputed domain name to the Complainant's trademark, there are no plausible circumstances in which the Respondent could legitimately use the disputed domain name.

Because the Complainant is well known throughout the world, it is inconceivable that the Respondent would not have been aware of the Complainant when registering the disputed domain name. Bad faith has been established where a domain name is so obviously connected to a well-known trademark that its use by someone with no connection to the trademark suggests opportunistic bad faith.

Because the disputed domain name is so similar to the Complainant's trademark, likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site. Finally, it is likely that the Respondent registered the disputed domain name to prevent the Complainant from using its trademark in the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)¹, “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

The disputed domain name is confusingly similar to the Complainant’s trademark, which is clearly recognizable in the disputed domain name. The addition of terms is not sufficient to prevent a finding of confusing similarity between the Complainant’s trademark and the disputed domain name. In this case, the addition of the word “tyres” is not sufficient to prevent a finding of confusing similarity with the Complainant’s trademark. See section 1.8 of the [WIPO Overview 3.0](#).

This means that the disputed domain name is confusingly similar with the Complainant’s trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* case indicating the absence of the respondent’s rights or legitimate interests in a disputed domain name the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel’s findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered or Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain name has been registered or is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent’s] documented out-of-pocket costs directly related to the domain name; or

¹ Considering the substantive similarities between the iDRP Rules and the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), the Panel also refers to UDRP case law and analysis, where appropriate.

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location."

The Panel finds, in accordance with the Complaint, that the Complainant's trademark is well known in its industry. It is therefore inconceivable that the Respondent would not have been aware of the Complainant or its trademark when registering the disputed domain name, particularly noting also the composition of the disputed domain name, which reproduces the Complainant's trademark in its entirety along with a term connected to the Complainant's products.

The disputed domain name does not refer to an active website. Accordingly, the disputed domain name is not in active use as an address for a specific website.

This, however, does not prevent the finding of bad faith under the doctrine of passive holding. See section 3.3 of [WIPO Overview 3.0](#).

Considering that the Panel has found that the Complainant's trademark is well-known, the Respondent has not responded to the Complaint or to the pre-complaint correspondence, there are no obvious good faith or legitimate uses to which the disputed domain name may be put, and the Panel considers, on balance, that the Respondent has acted in bad faith.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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 <michelintyres.ir> be transferred to the Complainant

/Tuukka Airaksinen /

Tuukka Airaksinen

Sole Panelist

Date: February 3, 2023