

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Dinesh Kumar,  
Michelin india  
Case No. D2022-3121

### **1. The Parties**

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

The Respondent is Dinesh Kumar, Michelin india, India<sup>1</sup>.

### **2. The Domain Name and Registrar**

The disputed domain name <michelinindiатыres.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2022. On August 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 25, 2022, 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 August 26, 2022.

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 August 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2022. The Respondent did not submit

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<sup>1</sup> At the time of the filing of the Complaint, the Respondent’s identity was masked by a privacy service.

any response. Accordingly, the Center notified the Respondent's default on September 19, 2022.

The Center appointed Cherise Valles as the sole panelist in this matter on September 27, 2022. 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 Compagnie Générale des Etablissements Michelin ("Michelin"), a leading international tire company, which provides digital services, maps and guides, and develops high technology materials for motorists.

Michelin is headquartered in Clermont-Ferrand, France, and is present in 170 countries with more than 124,000 employees. Michelin is a leader in tire technology for every type of vehicle. The Michelin brand is the top-selling tire brand worldwide. It operates 117 tire manufacturing facilities and sales agencies in 26 countries. Michelin has a Technology Center in charge of research, development, and process engineering, with operations in Europe, North America, and Asia (Annex 3 of the Complaint).

The Complainant has also been present in India for almost a decade. Through a rapidly expanding distribution network, it has established itself as a leading international tire maker in India. Michelin tires are designed, produced and marketed to meet the challenges of mobility in the Indian market. Michelin's India operation is assisted by Michelin India Technology Center (MITC), an integral part of the company's global R&D network that has over 6,000 employees engaged in research, development and process engineering (Annex 3 of the Complaint).

The Complainant is the owner of the following trademark registrations (Annex 4 of the Complaint):

- United States of America ("U.S.") trademark MICHELIN No. 4126565, registered April 4, 2012, duly renewed and covering goods and services in classes 36, 37, and 39;
- U.S. Trademark MICHELIN No. 1399361, registered July 2, 1986, duly renewed and covering goods and services in classes 16 and 25;
- Indian trademark MICHELIN No. 307972, registered August 25, 1975, duly renewed and covering goods in class 12;
- International Trademark MICHELIN No. 771031, registered June 11, 2001, and duly renewed, designating among others China, Egypt, Morocco, Singapore, and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42.

In addition, the Complainant owns, among others, the following domain names reflecting its trademarks (Annex 5 of the Complaint):

- <michelin.com> registered on December 1, 1993;
- <michelintyres.com> registered on September 20, 1999.

The disputed domain name was registered on October 7, 2021. The registrar with which the disputed domain name is registered is GoDaddy.com LLC.

The disputed domain name initially resolved to a parking page displaying commercial links related to the Complainant's field of activity. At the time of filing of the Complaint and of the decision, however, the disputed domain name resolves to a blank page.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

- The disputed domain name is confusingly similar to the Complainant's registered MICHELIN trademark, in the light of the fact that it wholly incorporates the Complainant's mark.

The Respondent lacks rights or legitimate interests in the disputed domain name.

- The Complainant states that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name that included its trademarks.

The disputed domain name has been registered and is being used in bad faith.

- The Complainant asserts that the disputed domain name was registered and is being used in bad faith. The mere fact of registration of a domain name that is confusingly similar or identical to a famous trademark by an entity that has no relationship to that mark is itself evidence of bad faith registration and use.

The Complainant requests the Panel to issue a decision finding that the disputed domain name be transferred to the Complainant, in accordance with paragraph 4(i) of the Policy.

### **B. Respondent**

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

## **6. Discussion and Findings**

In terms of paragraph 4(a) of the Policy, for a Complain to succeed, the Complainant must prove each of the following elements:

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

The Respondent has failed to file a Response in this proceeding. The Panel may draw appropriate inferences from the available evidence submitted by the Complainant.

## A. Identical or Confusingly Similar

To prove this element, the Complainant must have relevant rights in a trademark and the disputed domain name must be identical or confusingly similar to such trademark.

The Complainant submits that the disputed domain name is confusingly similar to the trademark in which it has rights. The disputed domain name incorporates the MICHELIN trademark in its entirety with the addition of the terms “india” and “tyres”. Given the Complainant’s trademark registration as detailed above, the Panel finds that the Complainant has established its trademark rights in MICHELIN for the purposes of paragraph 4(a)(i) of the Policy.

The Complainant asserts that the disputed domain name is confusing similar to its trademark. Previous UDRP panels have considered that the incorporation of a well-known trademark in its entirety may be sufficient to establish that the domain name confusingly similar to the Complainant’s registered trademark. (See *L’Oréal, Lancôme Parfums et Beauté & Cie v. Jack Yang*, WIPO Case No. [D2011-1627](#), *Rapidshare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin*, WIPO Case No. [D2010-1059](#), and *The Stanley Works and Stanley Logistics, Inc. v. Camp Creek Co., Inc.*, WIPO Case No. [D2000-0113](#)).

Furthermore, the disputed domain name adds terms to the Complainant’s trademark. As stated in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

Indeed, the inclusion of the the terms “india” and “tyres” in the disputed domain name does not prevent a finding of confusing similarity to Complainant’s MICHELIN trademark.

It is standard practice when comparing a disputed domain name to a complainant’s trademark not to take the Top Level Domain (“TLD”) into account. See section 1.11.1 of the [WIPO Overview 3.0](#), which states that the “applicable 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 of the confusing similarity test”. In the present case, the TLD “.com” is disregarded under the first element of the confusing similarity test.

In the light of the foregoing, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark and that the Complainant has met its burden with respect to paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a non-exhaustive set of circumstances, any of which, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate a respondent’s rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(ii) of the Policy, namely:

“[a]ny of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, whether on the basis of the non-exhaustive examples set out in paragraph 4(c) of the Policy or on any other basis, and the Panel draws inferences from this failure, where appropriate, in accordance with paragraph 14(b) of the Rules.

It is recognised in cases under the Policy that it is sufficient for a complainant to make a *prima facie* case under the second element of the Policy, not rebutted by the respondent, that the respondent has no rights or legitimate interests in the domain name concerned (see section 2.1 of the [WIPO Overview 3.0](#)). If a respondent fails to rebut such a *prima facie* case by demonstrating rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy, or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, it appears that the Complainant has established the requisite *prima facie* case under the second element of the Policy.

On the evidence before the Panel, it appears that there has never been any relationship between the Complainant and the Respondent. The Respondent does not seem to be licensed, or otherwise authorized, be it directly or indirectly, to register or use the Complainant’s MICHELIN trademark in any manner, including in, or as part of, the disputed domain name.

The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy in order to demonstrate rights or legitimate interests in the disputed domain name. In particular, the Respondent cannot assert that, prior to any notice of this dispute, he was using, or had made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. As mentioned, the disputed domain name had been initially directed to a parking page displaying commercial links targeting the Complainant’s main field of activity, which were likely to generate revenues for the Respondent (Annex 1 to the Complaint).

The Complainant submits that the Respondent is not a licensee, authorized agent of the Complainant, or in any other way authorized to use the Complainant’s trademark. Specifically, the Respondent is not an authorized reseller of the Complainant and has not been authorized to register and use the disputed domain name.

The registration of the MICHELIN trademarks preceded the registration of the disputed domain name by many years (Annexes 1 and 4 of the Complaint). The nature of the disputed domain name, consisting of the Complainant’s MICHELIN mark and additional terms, carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

In light of the foregoing, the Panel finds that the Complainant has established an unrebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and concludes that paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

For this element, the Complainant is required to prove that the disputed domain name was registered and that it was used in bad faith. The term “bad faith” is “broadly understood to occur where a

respondent takes unfair advantage of, or otherwise abuses, a complainant's mark". See section 3.1 of the WIPO Overview. Paragraph 4(b) of the Policy sets out four non-exhaustive examples of circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, namely:

- (i) circumstances indicating that the respondent registered or 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 documented out-of-pocket costs directly related to the domain name; or
- (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 of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

In the present case, the Complainant's submissions relate to paragraph 4(b)(iv) of the Policy.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typographical errors 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](#).

#### 1) Registration in bad faith

Given the well-known nature of the Complainant's MICHELIN trademark, it is implausible that the Respondent was unaware of the Complainant's trademark when he registered the disputed domain name.

Bad faith can be found where a respondent "knew or should have known" of a complainant's trademark rights but nevertheless registered a particular domain name in which he had no rights or legitimate interest (See *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. [D2009-0320](#); *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)).

The Complainant is well known throughout the world including the U.S. and India where the Respondent allegedly has connections (Annexes 3 and 4 of the Complaint). Several UDRP panels have previously acknowledged the worldwide reputation of the MICHELIN trademark (see, for example, *Compagnie Générale des Etablissements Michelin v. Shuitu Chen*, WIPO Case No. [D2016-1924](#)).

The composition of the disputed domain name is virtually identical to the Complainant's well-known trademark. The fact that the disputed domain name incorporates the Complainant's trademark MICHELIN and adds the geographic and dictionary terms "India" and "tyres", which make direct reference to the Complainant's field of commercial and geographic activity indicate that the Respondent registered the disputed domain name in order to divert Internet traffic to its website. Prior panels have held that bad faith can be found where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademarks suggests opportunistic bad faith (see *LEGO Juris A/S v. store24hour*, WIPO Case No. [D2013-0091](#)). Given the

strong reputation of the Complainant's trademark, registration in bad faith can be inferred.

As noted above, the Complainant's trademark rights predate the registration date of the disputed domain name (Annexes 1 and 4 of the Complaint). Knowledge of a corresponding trademark at the time of the registration of the domain name suggests bad faith (see *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#)).

## 2) Use in bad faith

As previously noted, the Respondent had used the disputed domain name to direct Internet users to a webpage displaying pay-per-clicks links which were likely to generate revenues. Previous UDRP panels have held that the use of a domain name to divert Internet users to a webpage for commercial gain is evidence of bad faith. (see *F Hoffmann-La Roche AG v. Anna Valdier*, WIPO Case No. [D2007-0956](#)).

The disputed domain name currently directs to a blank page (Annex 1 of the Complaint).

The disputed domain name currently resolves to an inactive page. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate under the Policy. Prior WIPO UDRP panels have held that the incorporation of a famous mark in a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *CBS Broadcasting, Inc. v. Dennis Toeppen*, WIPO Case No. [D2000-0400](#).

The Respondent has not participated in the administrative proceeding and has not answered the Complainant's contentions. The fact that the Respondent has decided not to provide any legitimate explanation or to assert any alleged good faith motivation in respect of the registration or use of the disputed domain name in the face of the Complainant's contentions can be regarded as an indicator of bad faith. Moreover, given the totality of circumstances, the Respondent's use of a privacy service to mask its identity further reinforces the Panel's bad faith finding. See [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel concludes that the Complainant has satisfied its burden of showing bad faith registration and use of the disputed domain name under paragraph 4(a)(iii) 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 <melinindiatyres.com> be transferred to the Complainant.

/Cherise Valles/

**Cherise Valles**

Sole Panelist

Date: October 11, 2022