

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. YangZhiChao Case No. D2023-0237

1. The Parties

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

The Respondent is YangZhiChao, China.

2. The Domain Names and Registrar

The disputed domain names <vamichelin.com>, <viamichalin.com>, and <wiamichelin.com> are registered with 22net, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2023. On January 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 20, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2023, 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 in English on January 27, 2023.

On January 25, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On January 27, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on February 3, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was February 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 24, 2023.

The Center appointed Rachel Tan as the sole panelist in this matter on March 2, 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 tire company headquartered in Clermont-Ferrand, France, which has presence in 171 countries. It has more than 114,000 employees and operates 69 production facilities in 2017. It set up a wholly owned subsidiary, Via Michelin, in 2001 to develop digital services for travel assistance. In 2015, the Via Michelin product was deployed in 13 countries.

The Complainant is the owner of various MICHELIN trade marks in the world, including China Trade Mark Registration No. 15961294, registered on March 7, 2016, and covering services in class 9, 35, 38, 39, 41, and 42; International Trade Mark Registration No. 771031, registered on June 11, 2001, covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42, and designating, among others, China; and International Trade Mark Registration No. 1245891, registered on December 10, 2014, covering goods and services in classes 35, 36, 39, 40, 41, 42, 44, and 45.

The Complainant is also the owner of domain names <michelin.com>, registered on December 1, 1993, and <viamichelin.com>, registered on November 7, 2000.

The Respondent is YangZhiChao, China.

The disputed domain names were registered on October 25, 2022. All disputed domain names resolve to an active pay-per-click ("PPC") webpage that lists out multiple third-party links related to different advertisements covering contents such as "Route Planner", "Route Planner UK", and "Driving Directions Route Planner".

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the Complainant's MICHELIN mark and the trade name "Via Michelin". The misspelling of the MICHELIN mark or the term "via" in the disputed domain names do not prevent the MICHELIN mark and the trade name "Via Michelin" from remaining clearly recognizable within the disputed domain names. Further, the generic Top-Level Domain (gTLD) ".com" is not to be taken into consideration when examining the identity or confusing similarity between the Complainant's mark and the disputed domain names.

The Complainant further alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register its trade marks, or to seek registration of any domain names incorporating said mark. The Respondent is not commonly known by the disputed domain names or the name "Michelin". The disputed domain names resolve to a parking page displaying commercial links and most of them are related to the Complainant's field of activity. Hence, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names.

The Complainant finally asserts that the composition of the disputed domain names which imitate the Complainant's MICHELIN mark and reproduce the trade name "Via Michelin" clearly demonstrates that the Respondent was aware of the Complainant when he registered the disputed domain names. The disputed

domain names are confusingly similar to the Complainant's mark and typosquatting is in itself evidence of bad faith. Further, the Respondent uses the disputed domain names to direct Internet users to a webpage displaying PPC links related to the Complainant's field of activity. The Respondent's primary motive in registering and using the disputed domain names was to capitalize on or otherwise take advantage of the Complainant's trade mark. In addition, the Complainant emphasizes the fact that the Respondent is a well-known cybersquatter that has been the subject of more than 80 UDRP proceedings.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain names is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) the Complainant is located in France and has no knowledge of Chinese, therefore, the use of another language than English in the proceeding would impose significant burden on the Complainant;
- (b) the disputed domain names only include Latin characters which strongly suggests that the Respondent has knowledge of languages other than Chinese; and
- (c) English is the primary language for international relations, and it is one of the working languages of the Center.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding. The Panel has considered the above circumstances, and finds that English shall be the language of this proceeding. The reasons are set out below:

- (a) the Complainant is a company based in France. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) the Respondent's choice of Roman letters for the disputed domain names and the websites with PPC links in English which the disputed domain names resolve to indicate that the Respondent is familiar with the English language;
- (c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the language of the proceeding, but the Respondent did not comment on the language of the proceeding and did not protest against the Complainant's request for English to be the language of the proceeding;

- (d) the Respondent has failed to participate in the proceeding even though the Center sent the notification in English and Chinese of the Complaint; and
- (e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this Decision in English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the MICHELIN mark.

The Panel notes that the MICHELIN mark is wholly encompassed within the disputed domain names <vamichelin.com> and <wiamichelin.com>. The positioning of the MICHELIN mark makes it instantly recognizable in these disputed domain names. In cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel also notes that the disputed domain name <viamichalin.com> consists of misspelling of the MICHELIN mark. In cases where a domain name consists of a common, obvious, or intentional misspelling of a trade mark, the domain name will normally be considered confusingly similar to the relevant mark for purposes of UDRP standing. See section 1.9 of the [WIPO Overview 3.0](#); and *Mediarex Enterprises Limited v. Yong Woon Chin, Webolutions*, WIPO Case No. [DCO2020-0014](#).

Further, it is accepted by previous UDRP panels that the addition to the complainant's trade mark of other words or terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element of the Policy. Accordingly, the additional English letter or terms "va", "via", and "wia" do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's MICHELIN mark. See section 1.8 of the [WIPO Overview 3.0](#).

It is permissible for the Panel to ignore the gTLD, in this case ".com". See section 1.11.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the disputed domain names are confusingly similar to the Complainant's mark and trade name. Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the MICHELIN mark whereas the Respondent seems to have no trade mark rights, and considering the facts and arguments set out above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate use of the disputed domain names or reasons to justify the choice of the disputed domain names that are confusing similar to the Complainant's MICHELIN mark. Further, there is no indication to show that the Respondent is commonly known by any of the disputed domain names or otherwise has rights or legitimate interests in them. In addition, the Complainant has not

granted the Respondent a license or authorization to use the Complainant's MICHELIN mark or register the disputed domain names. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names in the terms of paragraph 4(c)(iii) of the Policy since at the time of filing the Complaint and, at the date of this Decision, all the disputed domain names resolve to a PPC website with links to third-party websites, some of which are related to the Complainant's business. Such usage may reasonably be assumed to be commercial in its intent and effect. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names. Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's MICHELIN mark has been registered in a range of jurisdictions, including in China. The disputed domain names were registered after the registration of the Complainant's MICHELIN mark. Through extensive use and advertising, the Complainant's MICHELIN mark is known throughout the world. Search results using the key word "michelin" on the Internet search engine direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the MICHELIN mark and the Complainant has been established. As such, the Respondent clearly knew of the Complainant's MICHELIN mark when registering the disputed domain names, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that "[...] mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain names are confusingly similar to the widely known MICHELIN mark and were registered by the Respondent who has no relationship with the Complainant, which means that a presumption of bad faith can be created. Moreover, given the Complainant's extensive use of its tradename "ViaMichelin" and that the disputed domain names represent one-letter alterations of the Complainant's tradename, it is readily apparent that the Respondent sought to target the Complainant when registering the disputed domain names.

Section 3.5 of the [WIPO Overview 3.0](#) states that "[p]articularly with respect to 'automatically' generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links *ipso facto* vest the respondent with rights or legitimate interests)". The Panel notes that the disputed domain names resolve to parked pages comprising PPC advertising links that divert Internet users to various contents, some of which are related to the Complainant's business. The Panel finds the use of the confusingly similar disputed domain names to lure Internet users to third-party websites is evidence of bad faith. See *Sodexo v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2020-1171](#).

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising third-party trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *Asurion, LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4231](#). Such behaviour constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain names and, considering the Respondent's lack of rights or legitimate

interests, and by registering and using the disputed domain names as discussed above, the Panel is led to conclude that the disputed domain names were registered and are being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 <vamichelin.com>, <viamichalin.com>, and <wiamichelin.com> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: March 15, 2023