

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. 葛荣凯 (Ge Rong Kai)
Case No. D2023-2849

1. The Parties

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

The Respondent is 葛荣凯 (Ge Rong Kai), China.

2. The Domain Name and Registrar

The disputed domain name <michelintires.xyz> is registered with Xin Net Technology Corp. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 4, 2023. On July 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 12, 2023, the Registrar 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 sent an email communication to the Complainant on July 13, 2023, providing the registrant’s 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 July 17, 2023.

On July 13, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On July 14, 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 July 27, 2023. In accordance with the

Rules, paragraph 5, the due date for Response was August 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 25, 2023.

The Center appointed Jonathan Agmon as the sole panelist in this matter on September 12, 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, Compagnie Générale des Etablissements Michelin ("Michelin"), France, is a worldwide leading tire company. The Complainant also provides digital services, maps and guides to help enrich trips and travels and make them unique experiences, and developing high technology materials that serve the mobility industry. It currently has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries.

In 1989, Michelin had its first Representative office in Beijing, China. Since 1995, Michelin has set up its first manufacturing company in China, Michelin Shenyang Tire Co., Ltd., then it has relocated and built a new modern factory with the total investment of nearly USD 1.5 billion in 2013. Michelin also has a R&D company and many manufacturing and investment service companies in Shanghai, China. The total investment of Michelin in China is currently estimated exceeding USD 2 billion, with around 7,000 employees.

The Complainant is the owner of various MICHELIN trademarks worldwide. In particular, it owns the following trademarks in China:

- China National Intellectual Property Administration Registration No. 776333 for MICHELIN, registered on January 21, 1995;
- China National Intellectual Property Administration Registration No. 6167649 for MICHELIN, registered on January 7, 2010;
- China National Intellectual Property Administration Registration No. 10574991 for MICHELIN, registered on June 7, 2013.

The Complainant also states that it owns the domain names <michelin.com> and <michelintires.com>.

The Complainant provided evidence that the Respondents registered the disputed domain name on April 21, 2023. The disputed domain name redirects to a Dan.com's website where the Respondent is offering the disputed domain name for sale for the price of USD 1,450.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered MICHELIN mark as the Respondent has intentionally registered a confusingly similar domain name that incorporates the Complainant's mark in its entirety.

The Complainant also argues that the Respondent lacks any rights or legitimate interests in the marks or the disputed domain name as it has not authorised the Respondent to use any of its trademarks or register the disputed domain name, and that the Respondent registered and continues to use the disputed domain name in bad faith.

B. Respondents

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. The Complainant requested that the language of the proceeding be English for the following main reasons:

- (i) The Complainant is located in France and has no knowledge of Chinese;
- (ii) The disputed domain name consists of Latin characters rather than Chinese characters; and
- (iii) requiring the Complaint to be translated into Chinese would result in the proceedings being unduly delayed and the Complainant having to incur substantial expenses for translation.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states the following:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled Domain Names registered, used, or corresponding to a particular language, (viii) in cases involving multiple Domain Names, the use of a particular language agreement for some (but not all) of the disputed Domain Names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement."

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he appears to be familiar with and understands the English language. The contents of the redirected webpage reflect words in English and notably, nothing in Chinese. The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the commencement of the proceeding, the language of the proceeding, and deadline for filing a Response in Chinese or English. The Respondent therefore had ample opportunity to object and/or propose to submit his Response in Chinese but did not do so. In the absence of any rebuttal argument or justification therefore by the Respondent, the Panel does not find it procedurally efficient to have the Complainants translate the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

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

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the MICHELIN registered trademark.

The disputed domain name comprises the Complainant's MICHELIN mark in its entirety with the addition of the term "tires".

It is established that in cases where 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. The nature of such additional term(s) may however bear on assessment of the second and third elements. (See [WIPO Overview 3.0](#), section 1.8). Thus, the disputed domain name, which in this case incorporates the Complainant's mark in its entirety and contains the additional element "tires", does not avoid a finding of confusingly similarity between the Complainant's mark and the disputed domain name.

Further, it is well established that the addition of a Top-Level Domain ("TLD") ".xyz" is typically disregarded under the first element when considering the confusing similarity between the Complainant's trademark and the disputed domain name (see [WIPO Overview 3.0](#), section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production of evidence shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has furnished evidence that the Respondent is not commonly known by the name "Michelin".

The Complainant has demonstrated *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations of the MICHELIN mark long before the date that the disputed domain name was registered and that the Complainant is not affiliated with nor has it licensed or otherwise authorised the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The composition of the disputed domain name, which incorporates the Complainant's trademark in its entirety together with the term "tires", carries a risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1). Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's *prima facie* case. In the particular circumstances of the present case, the Respondent's use of the disputed domain name to offer the said disputed domain

name for sale does not represent a *bona fide* offering of goods or services. Such use of the disputed domain name can never confer rights or legitimate interests on the Respondent.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the Respondent registered the disputed domain name long after the Complainant registered its MICHELIN trademark. Given the accumulation of good will and distinctiveness of the Complainant's mark over the course of its over 100-year history, and the fact that the MICHELIN mark is distinctive, it is highly unlikely that the Respondent did not know of the Complainant and its MICHELIN mark prior to the registration of the disputed domain name.

In addition, the disputed domain name incorporates the entirety of the Complainant's MICHELIN mark along with the additional term "tires", which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant.

Further, the disputed domain name redirects to a webpage which lists the sale of the disputed domain name for the sum of USD 1,450. This is likely in excess of any reasonable out-of-pocket fee paid for the registration of the disputed domain name. The disputed domain name was registered on April 21, 2023. The Respondent's description of the disputed domain name on the webpage emphasises that it is a "premium domain", and that "[the disputed domain name] will appreciate just like precious metals, cryptocurrencies, real estate, etc. It is a permanent asset. Due to their scarcity and demand, premium domain names have historically increased in value. It is also a wise business investment with potential resale value". The Respondent therefore clearly intended to register the disputed domain name for the sole purpose of selling it. Previous UDRP panels have held that the registration of a domain name for the sole purpose of selling it constitutes bad faith under paragraph 4(b)(i) of the Policy (see *Compagnie Générale des Etablissements Michelin v. Cameron Jackson*, WIPO Case No. [D2016-2392](#)).

In addition, the Respondent did not submit a Response in this proceeding. Under the circumstances of this case, this is an additional indication of the Respondent's bad faith, which was considered by the Panel.

The Panel also notes that the Respondent's email address is premiumdomainseller@[...].com, which may be indicative of the Respondent's intentions under the circumstances of this case.

Based on the evidence presented to the Panel, including the confusing similarities between the disputed domain name and the Complainant's marks, the fact that the disputed domain name was registered for the sole purpose of being sold, and the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden 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 <michelintires.xyz> be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: September 19, 2023