

## **ADMINISTRATIVE PANEL DECISION**

### **Compagnie Générale des Etablissements Michelin v. Jibril Yahyaoui Case No. DAI2023-0020**

#### **1. The Parties**

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

The Respondent is Jibril Yahyaoui, France, self-represented.

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

The disputed domain name <michelin.ai> is registered with Key-Systems GmbH (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2023. On September 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 5, 2023, 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 (Redacted | EU Registrar) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 21, 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 on September 25, 2023.

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 October 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2023. The Respondent did not submit any response before the due date. Accordingly, the Center notified the Respondent’s default on October 25, 2023. The Center received an informal email communication from the Respondent on October 25, 2023.

The Center appointed Jane Seager as the sole panelist in this matter on November 16, 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**

Founded in 1899, the Complainant is a French company engaged in the manufacturing and sale of tires, provision of digital services, as well as maps and guides. The Complainant is present in some 170 countries across the globe, with over 124,000 employees, 117 tire manufacturing facilities and sales agencies in 26 countries. Since 1920, the Complainant has offered the “Michelin Guide”, awarding “stars” to fine dining establishments. The Michelin Guide now ranks over 30,000 establishments in over 30 countries, and has sold over 30 million copies.

The Complainant is the registered owner of various trademarks for MICHELIN, including:

- European Union Trade Mark No. 001791243, MICHELIN, registered on October 24, 2001;
- French Trademark Registration No. 4107584, MICHELIN, registered on July 24, 2014; and
- International Trademark Registration No. 771031, MICHELIN, registered on June 11, 2001.

The Complainant is the registrant of the domain name <michelin.com>, which resolves to the Complainant’s official public-facing website.

The disputed domain name was registered on January 6, 2023. The disputed domain name resolves to a hosting provider parking page.

On January 17, 2023, the Complainant sent a cease-and-desist letter to the Registrar with a request that the letter be forwarded to the registrant. On April 27, 2023, the Registrar disclosed the Respondent’s contact information in correspondence to the Complainant. On May 22, 2023, the Complainant sent a further cease-and-desist letter to the Respondent. The Respondent replied the same day stating that it no longer owned the disputed domain name. In subsequent correspondence, the Respondent continued to deny being the current registrant of the disputed domain name.

#### **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 name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the MICHELIN trademark in which it has rights. The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the MICHELIN trademark is well known throughout the world, and submits that it is implausible that the Respondent was unaware of the Complainant when registering the disputed domain name. The Complainant notes that a Mail Exchange Record has been configured for the disputed domain name, and argues that there is a risk that the disputed domain name could be used to engage in a phishing scheme targeting the Complainant’s clients or employees. The Complainant submits that the disputed domain name was registered and is being used in bad faith.

The Complainant requests transfer of the disputed domain name.

## B. Respondent

The Respondent did not submit a formal Response. On October 25, 2023, in reply to the Center's "Notification of Respondent Default" communication, the Respondent sent an informal email communication to the Center that stated:

"Hi,  
You can give the domain to michelin  
I do not own this domain name anymore.  
Please check with onlydomains as already said"

## 6. Discussion and Findings

### 6.1. Preliminary Matter: Respondent Identity

The Respondent has repeatedly denied ownership of the disputed domain name.

Paragraph 1 of the Rules provides that a "Respondent means the holder of a domain-name registration against which a complaint is initiated".

The registrant of the disputed domain name was confirmed by the Registrar as "Jibril Yahyaoui" of France. As noted above, the Respondent has been on notice of the present dispute since at least May 2023, some months prior to the Complainant's submission of its Complaint to the Center. The Respondent has not updated the registrant information, and the Panel is not in a position to determine whether the disputed domain name has been transferred to a third party. The Panel finds that the registrant "Jibril Yahyaoui" has been correctly identified by the Complainant as the registrant of record, and has therefore been identified as the Respondent in accordance with paragraph 1 of the Rules.

### 6.2. Substantive Matters

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (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 was registered and is being used in bad faith.

#### 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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 name.

Based on the available record, the Panel finds the second element of the Policy has been established.

## **C. Registered and Used 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.

The Panel notes that the Complainant’s trademark predates the Respondent’s registration of the disputed domain name by many years. The disputed domain name is solely composed of the Complainant’s MICHELIN trademark, under the Top-Level Domain “.ai”. The Panel infers that the Respondent knew or should have known of the Complainant’s rights in the MICHELIN trademark when registering the disputed domain name. Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

## 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 < Michelin.ai > be transferred to the Complainant.

*/Jane Seager/*

**Jane Seager**

Sole Panelist

Date: November 30, 2023