

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Privacy service  
provided by Withheld for Privacy ehf/ CARLOS GOMEZ  
Case No. D2022-2006

### **1. The Parties**

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / CARLOS GOMEZ, United States of America (“USA”).

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

The disputed domain name <michellins.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 2, 2022. On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 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 June 2, 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 June 6, 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 June 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on July 6, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

According to the un rebutted information in the Complaint, the Complainant is a leading tire company, dedicated to improving the mobility of goods and people by manufacturing and marketing tires for every type of vehicle, including airplanes, automobiles, bicycles/motorcycles, earthmovers, farm equipment, and trucks. It also offers electronic mobility support services on <viamichelin.com> and publishes travel guides, hotel and restaurant guides, maps, and road atlases. Headquartered in France, the Complainant is present in more than 171 countries, has 107,800 employees, and operates 68 production facilities in 17 different countries.

The Complainant has registered several trademarks consisting of MICHELIN including the International trademark No. 771031 registered on June 11, 2001 and the USA trademark No. 3329924 registered on November 6, 2007.

The Complainant owns and operates various domain names reflecting its trademark in order to promote its services, including <michelin.com> registered on December 1, 1993.

The disputed domain name was registered on November 9, 2021 and does not resolve to an active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain name represents a misspelling of its registered well-known trademark MICHELIN to which the letters "i" and "s" are added, which does not prevent a likelihood of confusion. On the contrary, such composition increases the likelihood of confusion as it may lead Internet users into believing that the disputed domain name will direct them to the Complainant's official website.

As regards the second element, the Complainant argues that the Respondent is neither affiliated with the Complainant in any way, nor has it been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark. When detected, the disputed domain name directed to a parking page containing commercial links related to the Complainant's field of activity. Also, the email servers were configured on the disputed domain name. The Complainant tried to solve the dispute amicably but despite several reminders, no response was received from the Respondent, nor did the Registrar comply with the blocking request. However, the direction of the disputed domain name has changed, and the disputed domain name currently resolves to an inactive page. The email servers remained configured. The Respondent has not made any reasonable and demonstrable preparations to use the disputed domain name. The Complainant also points to the fact that the Respondent never answered to the Complainant's cease-and-desist letter despite the Complainant's reminders and that "typosquatting" does not constitute a legitimate use of a domain name.

In what concerns the third element, the Complainant argues that taking into account the worldwide reputation of the Complainant and its trademarks, the composition of the disputed domain name which imitates the Complainant's trademark MICHELIN, as well as the fact that the mentioned trademark significantly predates the registration date of the disputed domain name, it is most likely to be believed that the Respondent registered the disputed domain name based on the notoriety and attractiveness of the Complainant's

trademark to divert Internet traffic to its website. As regards the use, the Complainant argues that when detected, the disputed domain name directed to a parking page containing commercial links related to the Complainant's field of activity. Moreover, multiple email servers were configured on the disputed domain name. The disputed domain name is currently inactive. However, passive holding does not preclude a finding of bad faith in the circumstances of the case.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Matters**

No communication has been received from the Respondent in this case. However, given that notice of the Complaint was sent to the relevant addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

### **6.2 Substantive Matters**

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

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

#### **A. Identical or Confusingly Similar**

The Complainant has provided evidence of its rights in the MICHELIN trademarks.

As regards the question of identity or confusing similarity for the purpose of the Policy, it requires a comparison of the disputed domain name with the trademarks in which the Complainant holds rights. According to section 1.7 of the [WIPO Overview 3.0](#), "this test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name".

Here the disputed domain name consists of the obvious misspelling of the MICHELIN trademark of the Complainant. This misspelling in the disputed domain names also referred as typosquatting, is insufficient to avoid a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9).

It is well accepted by UDRP panels that a generic Top Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark MICHELIN and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name. Rather, according to the unrebutted evidence put forward by the Complainant, at the date of the Complaint the disputed domain name was used to host a parked page comprising PPC links to competing services. According to section 2.9 of the [WIPO Overview 3.0](#), "Applying UDRP paragraph 4(c), 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 where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users". In this case, the PPC links are related to the Complainant's trademark MICHELIN and generate search results with competing services to those offered by the Complainant. In this Panel's view, such use does not confer rights or legitimate interests to the Respondent.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name.

The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

According to the unrebutted assertions of the Complainant, its MICHELIN trademarks were widely used in commerce well before the registration of the disputed domain name in November 2021 and are well-known. The Respondent provided no explanations for why he registered the disputed domain name. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The typosquatting nature of the disputed domain name further supports this inference.

The disputed domain name was used by the Respondent to direct to a website displaying PPC advertisements for services related to the Complainant's services. Given the confusing similarity between the MICHELIN trademark and the disputed domain name, noting also the similarity between the disputed domain name and the Complainant's domain name, Internet users would likely be confused into believing that the Complainant is affiliated with the website to which the disputed domain name resolves. Presumably the Respondent intends to benefit from the confusion created: it is likely that the Respondent earns income when Internet users click on the links in search of the Complainant's services.

It appears that the disputed domain name no longer resolves to an active website. The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademark of the Complainant is distinctive and widely used in commerce. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar 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](#).

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. An additional element is the DNS setup of the disputed domain name (with active MX records). Further, the Respondent has provided an incomplete contact address to the Registrar, implying that he does not wish to be located. Considering all the above, it is not possible to conceive any plausible actual or contemplated good faith registration and use of the disputed domain name by the Respondent.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain name was registered and used in bad faith.

## **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 <michellins.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: July 20, 2022