

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Domain Administrator,  
Fundacion Privacy Services LTD  
Case No. D2022-3856

### **1. The Parties**

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

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

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

The Disputed Domain Name <michelin2b2b.com> is registered with Media Elite Holdings Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 19, 2022, 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 verified that the 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 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 11, 2022.

The Center appointed Philip N. Argy as the sole panelist in this matter on November 16, 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.

All other administrative requirements appear to have been satisfied.

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

In the absence of a Response the following facts, taken from the Complaint, remain uncontested.

The Complainant, which is an internationally known enterprise most famous for its radial tyres for motor vehicles, is headquartered in Clermont-Ferrand, France, but is present in 170 countries and has more than 124,000 employees. It is the owner of the following Trademark Registrations:

- Panama Trademark MICHELIN No. 39677, registered on August 4, 1986, duly renewed, covering goods in class 12;
- Panama trademark MICHELIN No. 115414, registered on June 22, 2001, duly renewed, and covering services in class 39;
- Panama trademark MICHELIN No. 39675, registered on August 4, 1986, duly renewed, and covering goods in class 16;
- European Union trademark MICHELIN No. 001791243 registered on October 4, 2001, duly renewed, for goods in classes 6, 7, 12, 17 and 28;
- International Trademark MICHELIN No. 771031, registered on June 11, 2001 and duly renewed, designating among others: China, Egypt, Morocco, and Singapore, 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 is registrant of the following domain names:

- <michelin.com> registered on December 1, 1993;
- <michelinb2b.com> registered on November 28, 2000.

According to the WHOIS record, the Disputed Domain Name was first registered on August 19, 2022 for a period of one year. The registrant is a privacy shield.

According to the evidence submitted with the Complaint, the Disputed Domain Name resolved to a pay-per-click website ("PPC"), and is also the subject of an MX record, which means that the registrant is able to send emails from [anything]@michelin2b2b.com.

Currently, the Disputed Domain Name resolves to an inactive website.

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

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

The Complaint is based on the three grounds set out in the Policy, namely, that the Disputed Domain Name is identical or at least confusingly similar to MICHELIN, being a trade mark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and that the Disputed Domain Name was registered and is being used in bad faith.

In the absence of a Response the Complainant's fulsome evidence and submissions do not need to be set out here in any great detail. They can be summarised as follows:

First, the Disputed Domain Name is identical or at least confusingly similar to the Complainant's trademark MICHELIN. It at least embodies the Complainant's trademark in its entirety, which trademark previous panels have considered to be "well-known" or "famous"<sup>1</sup>. The addition of "2b2b" is apt to associate the Complainant's well-known trademark with the standard abbreviation for "business-to-business". The insertion of the additional digit "2" would be overlooked by most readers. Certainly it is well-established within the jurisprudence of the Policy that adding a generic and descriptive term to a trade mark does not detract from the similarity between a trademark and a domain name. To the extent that Internet users are familiar with the Complainant's own website at "www.michelinb2b.com" the insertion of the additional digit "2" by way of a misspelling can only be calculated to cause confusion and to leave the impression that the Complainant is what is being referred to.

It is most likely that the Disputed Domain Name would be associated in some way with the Complainant and its famous trademarks. The Respondent must be taken to have intended that the association be made.

In relation to the second ground of the Complaint it is recorded that the Respondent is not affiliated with the Complainant in any way nor has it been authorised to use or register the trademark or to seek registration of any domain name incorporating the Complainant's trademark. The Respondent has no prior rights or legitimate interest in the Disputed Domain Name and its registration post-dated the Complainant's first registration of its trademark by almost 40 years.

Moreover, the Disputed Domain Name is so identical to the famous MICHELIN trademark of the Complainant and the Complainant's official domain name, that the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the Disputed Domain Name.

The Respondent cannot assert that, before any notice of this dispute, it was using, or had made demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services, in accordance with paragraph 4(c)(i) of the Policy. The Disputed Domain Name initially directed to a parking page displaying commercial links of various content, which are likely to generate revenues, and currently redirects to fraudulent pages presenting security risks -certainly there is no semblance of use of the Disputed Domain Name in connection with a *bona fide* offering of goods and services and the Respondent has failed to show any intention of non-commercial or fair use.

Despite several attempts by the Complainant to communicate with the Respondent, the Respondent never replied. It can therefore be inferred that the Respondent has no rights or legitimate interests in the Disputed Domain Name because he or it would have responded to the Complainant's communications prior to commencement of this proceeding. It is not possible to conceive of a plausible circumstance in which the Respondent could legitimately use the Disputed Domain Name, as it would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights.

For similar reasons to those set out above in relation to ground two of the Complaint, it is implausible to imagine that the Respondent was not perfectly well aware of the Complainant at the time of registration of the Disputed Domain Name. The Complainant is well known throughout the world including in Panama where the Respondent is allegedly located. Furthermore, the composition of the Disputed Domain Name is virtually identical to the Complainant's business-to-business domain name <michelinb2b.com>. By typosquatting on that domain name the Respondent demonstrates not only clear knowledge of the

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<sup>1</sup> For example, see *Compagnie Générale des Etablissements Michelin v. Shuitu Chen*, WIPO Case No. [D2016-1924](#); *Compagnie Générale des Etablissements Michelin v. Isaac Goldstein, Hulmiho Ukolen, Poste restante/Domain Admin, Whois protection*, this company does not own this domain name s.r.o., WIPO Case No. [D2015-1787](#); *Compagnie Générale des Etablissements Michelin v. Oncu, Ibrahim Gonullu*, WIPO Case No. [D2014-1240](#); *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#); *Compagnie Générale des Etablissements Michelin v. Milan Kovac/Privacy--Protect.org*, WIPO Case No. [D2012-0634](#); *Compagnie Générale des Etablissements Michelin v. Vyacheslav Nechaev*, WIPO Case No. [D2012-0384](#), and *Compagnie Générale des Etablissements Michelin v. Transure Enterprise Ltd, Host Master / Above.com Domain Privacy*, WIPO Case No. [D2012-0045](#).

Complainant's trademark but also a clear intention to divert Internet traffic to its illegitimate domain name. And finally, it is impossible given the almost 40 years presence of the Complainant and its famous trademarks, that the Respondent was not fully aware of the Complainant and its business including its business-to-business web portal.

## **B. Respondent**

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

## **6. Discussion and Findings**

Despite the absence of a Response the onus remains on the Complainant to make out each of the Grounds of the Policy and these are dealt with sequentially below.

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

The evidence is quite conclusive that the Complainant is the registered proprietor of numerous MICHELIN trademarks throughout the world. It plainly has rights in that trademark, which is fully embedded and thus recognizable in the Disputed Domain Name. The suffix of "b2b" which universally designates business-to-business is apparent in the Complainant's own domain name <michelinb2b.com>, which the Respondent has clearly targeted, making the confusing similarity with the Complainant's trademark stronger rather than weaker. Indeed the practice of typosquatting manifests deliberate confusing similarity and here the embedding of the Complainant's trademark in full in the Disputed Domain Name cements the position; it is self-evidently confusingly similar to the Complainant's MICHELIN trademark.

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

The extensive evidence submitted by the Complainant in relation to its registration and use of the MICHELIN trademarks around the world, as well as its use of "www.michelinb2b.com" to point to its official business-to-business web portal makes it difficult to envisage how the Respondent could have any rights or legitimate interests in respect of the Disputed Domain Name.

Additionally, 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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.9). The Panel finds that in this case, the Disputed Domain Name indeed is capitalizing on reputation and goodwill of the MICHELIN mark.

In the absence of a Response, the Panel accepts the Complainant's submissions and is comfortably satisfied that the Respondent has no such rights.

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

The Panel is compelled to accept the Complainant's submissions in relation to this limb of the Policy given the use of a privacy shield, the obvious typosquatting conduct and, more concerningly, given the deployment of an email context that can have no objective other than phishing.

This kind of conduct is classic registration and use in bad faith and one of the reasons for the development of the Policy. The Panel respectfully commends to future panels the adoption of the principle that use of a typosquatting domain name for phishing *per se* constitutes registration and use in bad faith<sup>2</sup>. This might also

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<sup>2</sup> See also *Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj*, WIPO Case No. [D2017-1225](#).

be usefully considered when the Policy is next being reviewed.

The Complainant has accordingly made out this ground of the Complaint to the Panel's satisfaction.

## **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 <michelin2b2b.com> be transferred to the Complainant.

*/Philip N. Argy/*

**Philip N. Argy**

Sole Panelist

Date: November 29, 2022