

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Domain Administrator,  
Fundacion Privacy Services LTD  
Case No. D2023-2522

### **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 <michelinwipes.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 June 12, 2023. On June 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 15, 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 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 June 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2023.

The Center appointed Gökhan Gökçe as the sole panelist in this matter on August 7, 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 Compagnie Générale des Etablissements Michelin (“Michelin”), a tire company, headquartered in France, which designs, develops, and distributes tires, provides digital services, maps and guides for trips and travels and develops materials for the travel industry. The Complainant is present in 170 countries, with over 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including the United States of America.

The Michelin Guide was first launched in 1920 in order to help motorists plan their trips. In 1926, the guide began to award stars for fine dining establishments and later, the Michelin Guide included a list of hotels in Paris, lists of restaurants according to specific categories, without paid-for advertisements in the guide. The guide now rates over 30,000 establishments across three continents, with over 30 million Michelin Guides sold worldwide.

The Complainant owns numerous registered MICHELIN trademarks around the world, including:

- Panama Trademark MICHELIN No. 39677, filled application on September 30, 1985, registered on August 4, 1986, duly renewed and covering goods in class 12;
- Panama Trademark MICHELIN No. 115414, filled application and registered on June 22, 2001, duly renewed and covering services in class 39;
- Panama Trademark “MICHELIN” No. 39675, dated September 9, 1985, duly renewed and covering goods in class 16;
- International Trademark MICHELIN No. 771031, designating among others, China, Egypt, Spain, Morocco, Russian Federation, Singapore, registered June 11, 2001, duly renewed since then and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42.

The Complainant has also been owning and operating its website at “www.michelin.com” since 1993.

The disputed domain name was registered on January 16, 2023. The Complainant submitted evidence (Annex 1 to the Complaint) which shows that the disputed domain name directed to a pay-per-click (“PPC”) page displaying sponsored links of various content. The Panel visited the disputed domain name on August 8, 2023, and determined that the disputed domain name redirected visitors to an online betting website at “www.go.hepsibahis736.com”.

On February 1, 2023, the Complainant sent a cease-and-desist letter and several reminders (Annex 6 to the Complaint) to the Respondent through the Registrar, without receiving any response.

#### **5. Parties’ Contentions**

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

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is identical or confusingly similar to its MICHELIN trademark.

The Complainant argues that the disputed domain name reproduces entirely Complainant’s trademark MICHELIN associated with the term “wipes”. The Complainant is of the opinion that the addition of these nondistinctive elements does not negate the confusing similarity with its MICHELIN trademark.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, that, so far as the Complainant is aware, the Respondent is not generally known by the disputed

domain name, and the Complainant has not authorized the Respondent to use its MICHELIN trademark in connection with registration of a domain name, or otherwise.

Finally, the Complainant submits that the Complainant is well known throughout the world, and the Respondent must have been aware of the Complainant's trademark when the Respondent registered the disputed domain name. Furthermore, the Complainant's MICHELIN trademark registrations predate the registration date of the disputed domain name. Therefore, it is argued that the Respondent has registered and is using the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules requires the Panel to decide a complaint based on the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant bears the burden of showing:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the [WIPO Overview 3.0](#).

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

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having trademark rights in MICHELIN.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's MICHELIN trademark, as it fully incorporates the Complainant's trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would generally not prevent a finding of confusing similarity. The addition of "wipes" does not, in view of the Panel, prevent a finding of confusing similarity between the disputed domain name and the Complainant's MICHELIN trademark.

Finally, the addition of a generic Top-Level Domain ("gTLD") such as ".com" in a domain name is technically required. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the Complainant has established element 4(a)(i) of the Policy.

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

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's MICHELIN trademark in a confusingly similar way within the disputed domain name.

As argued in the Complaint, the disputed domain name directed to a parking page displaying sponsored links. The Panel finds that this use does not characterize an evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.9.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. In the absence of a substantive response, the Respondent has particularly failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name. Even more, the Panel notes that the nature of the disputed domain name carries a risk of implied affiliation or association and that such implied affiliation was clearly the intent of the Respondent. The Panel concludes that the disputed domain name was used to impersonate the Complainant, which amounts to an illicit use that can never confer rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), section 2.13.

Additionally, the Complainant states that the Respondent never answered the Complainant's cease-and-desist letter despite several reminders. UDRP panels have repeatedly stated that when the respondents do not avail themselves of their rights to respond to the complainants, such can support, in appropriate circumstances, an inference that the respondents have no rights or legitimate interest in the disputed domain name.

Therefore, the Panel finds that the Complainant has established element 4(a)(ii) of the Policy.

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

The Panel finds that the Respondent knew of the Complainant's trademark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain name. As the Respondent previously uses the same trademark for several domain names registration such as *Compagnie Générale des Etablissements Michelin v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2022-3856](#); *Compagnie Générale des Etablissements Michelin v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-3085](#); *Compagnie Générale des Etablissements Michelin v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2022-2886](#). It is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

The fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's trademark MICHELIN and the term "wipes" shows that the Respondent has targeted the Complainant and its activities. This conduct constitutes opportunistic bad faith registration under the Policy (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc.*

*v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Boehringer Ingelheim Pharma GmbH & Co. KG v. Marius Graur*, WIPO Case No. [D2019-0208](#)).

The website displayed at the disputed domain name is a PPC site which has been set up to the commercial benefit of the Respondent and which directs Internet users to other sites. It is highly likely that Internet users when typing the disputed domain name will believe that the disputed domain name is related in some way to the Complainant. The disputed domain name is likely to confuse Internet users trying to find the Complainant's official website. Therefore, this Panel considers that the Respondent is trying to capitalize on the reputation and goodwill of the Complainant by misleading Internet users, for commercial gain, to the disputed domain name by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of said disputed domain name, which constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Finally, the fact that an email server has been configured on the disputed domain name indicates that the Respondent may be engaged in a phishing scheme, a practice intended to defraud consumers into revealing personal and financial information. Consequently, given the overall circumstances of the case, the Panel finds that the disputed domain name is not used in any type of legitimate business or services.

Therefore, the Panel finds that the Complainant has established element 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, < Michelinwipes.com > be transferred to the Complainant.

*/Gökhan Gökçe/*

**Gökhan Gökçe**

Sole Panelist

Date: August 21, 2023