

## **ADMINISTRATIVE PANEL DECISION**

### **Compagnie Générale des Etablissements Michelin v. Michelin Man Case No. D2024-1190**

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

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

Respondent is Michelin Man, Canada.

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

The disputed domain name <michelinman.wtf> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

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

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 19, 2024. On March 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email to Complainant on March 25, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 26, 2024.

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 Respondent of the Complaint, and the proceedings commenced on March 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 23, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on May 6, 2024. 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

Complainant is one of the leading tire manufacturers in the world, and has been so for decades.

According to the Complaint:

“Since 1889, Michelin has innovated constantly to facilitate the mobility of people and goods, thus contributing to the advancement of human progress. Today, the Group is the leader in tire technology for every type of vehicle, leveraging its expertise in high-tech materials to deliver services and solutions that increase travel efficiency and products that enable customers to enjoy unique mobility experiences. The Michelin brand is the top-selling tire brand worldwide and it is the No. 1 source of innovation in the global tire industry.” [...]

“The MICHELIN Guide was first launched in 1920 in order to help motorists plan their trips - thereby boosting car sales and in turn, tyre purchases. In 1926, the guide began to award stars for fine dining establishments, initially marking them only with a single star. Five years later, a hierarchy of zero, one, two, and three stars was introduced, and in 1936, the criteria for the starred rankings were published. For the first time, the MICHELIN Guide included a list of hotels in Paris, lists of restaurants according to specific categories, as well as the abandonment of paid-for advertisements in the guide. During the rest of 20th century, thanks to its serious and unique approach, the MICHELIN Guides became best-sellers without equals: the guide now rates over 30,000 establishments in over 30 territories across three continents, and more than 30 million MICHELIN Guides have been sold worldwide since.” [...]

“Bibendum, commonly referred to in English as the Michelin Man or Michelin Tyre Man, is the official mascot of the Michelin tyre company. A humanoid figure consisting of stacked white tyres, the mascot was introduced at the Lyon Exhibition of 1894 where the Michelin brothers had a stand, and is one of the world's oldest trademarks.”

Complainant owns numerous trademark registrations in various jurisdictions for the mark MICHELIN, including: United States Patent and Trademark Office Reg. No. 3,684,424, registered on September 15, 2009 for goods and services in international classes 3, 5, 7, 8, 9, 11, 12, 16, 17, 20, 21, 24, 25, 27, and 28; and European Union Reg. No. 001791243, registered October 24, 2001 for goods and services in international classes 6, 7, 12, 17, 28.

Several prior UDRP panels have found the MICHELIN trademark to be “well-known” or “famous.”

Complainant owns several domain names, including <michelin.com> (registered on December 1, 1993) and <michelinman.com> (registered on November 6, 2001).

The Domain Name was registered on February 25, 2024. The Domain Name resolves to a website that shows the MICHELIN MAN mascot and contains other content, including a “buy” hyperlink.

According to Complainant, the Domain Name “resolves to a website reproducing Complainant’s mascot, The Michelin Man, and displaying links to social media, reviews and crypto platforms, presenting a high security risk to Complainant’s customers.” Complainant states that, “when clicking on the link ‘buy’ available on [Respondent’s] website, users are redirected to <https://raydium.io/swap> platform where they can buy Solana cryptocurrency.”

Complainant also alleges that “e-mail servers have been configured on the domain name at dispute and thus, there might be a risk that Respondent is engaged in a phishing scheme.” According to Complainant,

“the use of an email address with the disputed domain name presents a significant risk where Respondent could aim at stealing valuable information such as credit cards from Complainant’s clients or employees.”

Upon learning of the Domain Name, Complainant “sent notifications to the registrar and hosting provider, asserting its trademark rights and requesting the blocking of the domain name and the deactivation of the website, respectively.” Despite multiple reminders, Complainant states, it received no response.

Respondent has not disputed any of the foregoing allegations.

## **5. Parties’ Contentions**

### **A. Complainant**

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

### **B. Respondent**

Respondent did not reply to Complainant’s contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

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

The Panel concludes that Complainant has rights in the trademark MICHELIN through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The MICHELIN mark is clearly recognizable within the Domain Name, and the additional word “man” does not prevent the confusing similarity between the mark and the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

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

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward to articulate, much less prove, any legitimate reason for registering the Domain Name, which contains a famous trademark and adds the word “man,” which is associated with Complainant’s longstanding mascot. Respondent appears (from the “buy” hyperlink) to be making commercial use of the Domain Name, and, on this undisputed record, has done so by targeting and free-riding on Complainant’s mark (and mascot) to lure Internet users to Respondent’s site. Such conduct plainly does not give rise to a right or legitimate interest vis-à-vis the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

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

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. Again, the use of the word “man” in the Domain Name yields the finding, on a balance of probabilities and on the record here, that Respondent had Complainant’s well-known MICHELIN mark in mind when registering the Domain Name. Respondent’s use of the Domain Name to link to other commercial websites runs afoul of the above-quoted Policy paragraph 4(b)(iv), and constitutes bad faith registration and use under the Policy.

Complainant has established Policy paragraph 4(a)(iii).

## **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 Domain Name <michelinman.wtf> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: May 20, 2024