

## ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Xiaowu2  
Case No. D2024-1761

### 1. The Parties

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

The Respondent is Xiaowu2, China.

### 2. The Domain Name and Registrar

The disputed domain name <michelinpay.top> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 2024, 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 for Privacy and contact information in the Complaint.. The Center sent an email communication to the Complainant on April 30, 2024, 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 May 2, 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 the Respondent of the Complaint, and the proceedings commenced on May 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2024.

The Center appointed Daniel Kraus as the sole panelist in this matter on June 3, 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**

The Complainant is a tire manufacturing company with headquarters in Clermont-Ferrand, France. The Complainant also publishes travel guides, hotel and restaurant guides, maps, and road atlases. The Complainant, who is present in 170 countries, has been using the MICHELIN trademark throughout the world for more than a century. The Complainant owns numerous trademark registrations for MICHELIN including, for example:

- International trademark No. 771031, registered June 11, 2001, duly renewed and covering goods et services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42, and designating among others: China, Russia, Viet Nam and Singapore;
- Chinese trademark No. 136402, registered April 5, 1980, duly renewed and covering goods in class 12.

In addition, the Complainant owns several domain names that reflect its trademarks, including <michelin.com>.

The disputed domain name was registered on January 30, 2024. At the time of the filing of the Complaint and at the time of this Decision, the disputed domain name resolves to an inactive webpage.

#### **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 confusingly similar to the Complainant's MICHELIN trademark, since it contains the marks in its entirety with the addition of the term "pay". The disputed domain name is thus likely to confuse Internet users into believing that the disputed domain name will direct them to a website related to the Complainant's financial activities.

The Complainant further contends that the Respondent is not affiliated with the Complainant in any way nor has the Respondent been authorized by the Complainant to use and register its trademarks, or to seek registration of any domain name incorporating said trademarks. Furthermore, the Respondent has no prior rights or legitimate interests in the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant is well known throughout the world making it unlikely that the Respondent was unaware of the Complainant's trademark rights when the Respondent registered the disputed domain name. The fact that the Respondent registered the domain name through a privacy shield service to hide his identity and contact details is also an indication of the Respondent's bad faith.

##### **B. Respondent**

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

## **6. Discussion and Findings**

### **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.

The Panel finds that the disputed domain name <michelinpay.top> is confusingly similar to the Complainant's registered trademark MICHELIN because it contains the mark in its entirety. The addition of the term "pay" does not dispel a finding of confusing similarity in the present case. [WIPO Overview 3.0](#), section 1.8. Here, the generic Top-Level Domain ("gTLD") ".top" is typically disregarded under the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

### **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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 such as those enumerated in the Policy or otherwise. Moreover, the Panel finds that the composition of the disputed domain name effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are therefore fulfilled in relation to the disputed domain name.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name 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.

Given the circumstances of the case, including the evidence on record of the use of the Complainant's trademark MICHELIN, and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that it chose such a misleading disputed domain name likely to create confusion among Internet users.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name does not resolve to an active webpage, but this does not prevent a finding of bad faith under the doctrine of passive holding. The Panel finds the nonuse of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding, especially so where the composition of the disputed domain name makes it clear that the particular trademark is being targeted. [WIPO Overview 3.0](#), section 3.3.

Noting that the disputed domain name incorporates the Complainant's distinctive trademark MICHELIN, that no Response has been filed, the misleading nature of the disputed domain name, the passive holding of the disputed domain name and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## **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 <michelinpay.top> be transferred to the Complainant.

*/Daniel Kraus/*

**Daniel Kraus**

Sole Panelist

Date: June 17, 2024