

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues,  
Fundacion Comercio Electronico  
Case No. D2024-1967

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <michelingman.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 10, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 2024, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 13, 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 13, 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 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 4, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on June 7, 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, Compagnie Générale des Etablissements Michelin, is a company incorporated in France. It is a world leading tire company, which is dedicated to enhancing its clients' mobility, sustainably designing and distributing the most suitable tires, services, and solutions for its clients' needs. The Complainant is present in 171 countries, has more than 114,000 employees and operates 69 tire manufacturing facilities and sales agencies in 17 countries.

The Complainant has exclusive rights in MICHELIN marks. Complainant is the exclusive owner of numerous MICHELIN marks worldwide, such as an International trademark registration for MICHELIN registered on June 11, 2001 (International trademark registration number 771031).

The Complainant is also the owner of the following trademarks:

- Panama Trademark "MICHELIN" No. 39677, dated August 4, 1986, duly renewed, covering goods in class 12;
- Panama trademark "MICHELIN" No. 115414, dated June 22, 2001, duly renewed and covering services in class 39;
- United States of America trademark "MICHELIN" No. 4126565, dated April 10, 2012, duly renewed and covering services in classes 36, 37 and 39;
- European Union trademark "MICHELIN" No. 001791243, dated October 24, 2001, duly renewed and covering goods in classes 6, 7, 12, 17 and 28;
- International Trademark "MICHELIN" No. 771031, dated June 11, 2001, duly renewed and designating among others China, Egypt, Morocco, Russian Federation, Singapore, and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, 42.

In addition, the company's symbol is the Michelin Man named Bibendum. Bibendum was created in 1898 by the imagination of the Michelin brothers and the paintbrush of the cartoonist Marius Rossillon, alias O'Galop. Throughout history and innovations, the Michelin Man evolved to remain always in phase with his time. The Michelin Man was elected as the "Best logo of the century" by an international jury in 2000 (see *Compagnie Générale des Etablissements Michelin v. Trendimg*, WIPO Case No. [D2010-0484](#)).

The disputed domain name was registered on February 23, 2024, and is currently not in use.

However, according to the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a parking page displaying commercial pay-per-click (PPC) links to third parties with various content, including ones targeting one of Complainant's fields of activity e.g., restaurants – for which the Complainant is famous for its star rating system. In addition, an email server is configured on the disputed domain name, which presents the risk of phishing activities. The disputed domain name was also for sale for 51.99 GBP on the Registrar's website.

On March 15, 2024, the Complainant sent a cease-and-desist letter to the Registrar, requesting the contact details of the registrant and transfer of the disputed domain name.

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

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

The Complainant requests that the disputed domain name be transferred to the Complainant.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the mark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

### **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 Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "man" and the letter "g" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy; at the same time, it affirms the Respondent's intent to target the Complainant and confuse users given that the Michelin Man is a known logo of the Complainant. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### **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.

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.

In the present case the disputed domain name is not currently in use, but used to resolve to a website with PPC links including those in an industry the Complainant is known for. Such use does not represent a bona fide offering as the links compete with or capitalize on the reputation and goodwill of the Complainant’s trademark. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

### **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.

In the present case, the Panel notes that the:

- the disputed domain name reproduces Complainant’s trademark MICHELIN in its entirety, which previous panels have considered to be “well-known” or “famous” (*Compagnie Générale des Etablissements Michelin v. World Industrial, LNQ*, WIPO Case No. [D2019-0553](#); *Compagnie Générale des Etablissements Michelin v. Kanoksak Puangkham*, WIPO Case No. [D2018-2331](#); *Compagnie Générale des Etablissements Michelin v. WhoisGuard, Inc., WhoisGuard Protected / Saad Zaeem, Caramel Tech Studios*, WIPO Case No. [D2017-0234](#); *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](#); *Compagnie Générale des Etablissements Michelin v. Cameron David Jackson*, WIPO Case No. [D2015-1671](#)).

The disputed domain name contains the trademark of the Complainant, the letter “g”, plus the term “man”. The Michelin Man has also been considered a well known mark (see *Compagnie Générale des Etablissements Michelin v. Trendimg*, WIPO Case No. [D2010-0484](#)).

- The Respondent has been the subject of more than 200 UDRP cases.
- The Disputed domain name is currently not in use, however at the time of filing the complaint it was used for PPP ads.

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.

As the PPC links resolved to websites competing with the Complainant's business, there is evidence of an intent to capitalize on the goodwill of the Complainant's trademark. The Panel therefore notes that the disputed domain name is being used in bad faith since the Respondent attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the disputed domain name's source, sponsorship, affiliation, or endorsement; an activity clearly detrimental to the Complainant's business under paragraph 4(b)(iv) of the Policy.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <michelingman.com> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: July 2, 2024