

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Generale Des Etablissements Michelin v. danny sullivan  
Case No. D2024-2227

### **1. The Parties**

The Complainant is Compagnie Generale Des Etablissements Michelin, France, represented by Tmark Conseils, France.

The Respondent is danny sullivan, United States of America.

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

The disputed domain name <mishelin.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 30, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 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 (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 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 June 7, 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 June 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 2, 2024.

The Center appointed Indrek Eelmets as the sole panelist in this matter on July 11, 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 French company founded in 1889. It is one of the world's largest tyre companies, has more than 127,000 employees, it operates 117 tyre manufacturing facilities in 26 countries, and 7,600 dealerships in 30 countries worldwide, including the United States of America. The Complainant uses the Michelin brand, which has been ranked 8th among the world's 100 most reputable companies and No.1 in the automotive industry (2019 GlobalRepTrak Survey). The Complainant is also highly involved into travel publications (maps, guides, atlases, computerized products), including the famous Guide MICHELIN, and vehicle racing (Formula One and Motorcycle Grand Prix, Superbike) and rallies.

The Complainant owns trademark registrations for MICHELIN in many countries around the world related to the tyres production and sale as well as road maps and various guide publications in the field of restaurant. Among others, the Complainant is the owner of the following trademark registrations:

- International Trademark Registration MICHELIN No. 1713161 registered on March 25, 2024, and No.1254506 registered on December 10, 2024;
- United States of America Trademark MICHELIN No. 5775734 registered on June 11, 2019;
- European Union Trademark Registration MICHELIN No. 013558366 registered on April 17, 2015

The Complainant operates, inter alia, the domain name <michelin.com> which was registered on December 1, 1993.

The disputed domain name was registered on November 28, 2020. At the time this Complaint was submitted the disputed domain name resolved to a website hosting links to third-party websites.

#### **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 its MICHELIN trademark domain name as it reproduces quasi-identically the MICHELIN trademark, "mishelin" constituting clear and obvious typo squatting by simply replacing the letter "c" with the letter "s"; the modification of this letter is imperceptible.

Further, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name and relies on the following:

- The Complainant is the sole legitimate owner of trademark, corporate name, domain name made of/including MICHELIN.
- The Complainant has not authorized the Respondent to identify itself to the public as "michelin" or "mishelin" in domain names.

- MICHELIN is not a generic term, but a registered distinctive and famous trademark owned by the Complainant.
- The Respondent must have been aware of the MICHELIN trademarks. The Respondent has impermissibly taken advantage of the Complainant's commercial interest in its mark MICHELIN. The Respondent registered <mishelin.com> because of the connection to the Complainant, its trademark and goods and services in restaurant/gastronomy industry. The Respondent's use of the disputed domain name linked to the Complainant's MICHELIN mark will illegitimately generate a larger audience than would likely have been the case if the Respondent chose a domain name that was not confusingly similar to a famous mark.

Finally, the Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith because:

- Considering the protection and constant use by the Complainant of the well-known trademark MICHELIN worldwide, it is implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name.
- No explanation may be reasonably submitted to understand why the Respondent selected the said domain name other than to exploit the Complainant's goodwill in its MICHELIN marks and mislead Internet users.
- The disputed domain name redirects to a parking page with Pay-Per-Click (PPC) links related to catering activities such as hotels and restaurants.
- The Respondent is deliberately taking undue advantage of the Complainant's trademark to attract consumers and more generally to generate profits through PPC advertisements. This behavior is evidence of the Respondent's intentional attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademark.

## **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 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 Panel finds that the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9. The disputed domain name consists of an obvious misspelling of a trademark as the letter "c" has been replaced with the letter "s".

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.

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. Applying UDRP paragraph 4(c), 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. [WIPO Overview 3.0](#), section 2.9.

There is no evidence that the Respondent has made preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or been commonly known by the disputed domain name or is 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. The Respondent is not authorized to use the Complainant’s trademark and has no relationship with the Complainant.

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.

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.

Given the Complainant’s numerous trademark registrations for, and its worldwide reputation in, the word MICHELIN, it is highly unlikely that the Respondent registered the disputed domain name without prior knowledge of the Complainant’s mark.

Further, the Panel notes that the disputed domain name consists of an obvious misspelling of the mark as the letter “c” has been replaced with the letter “s”. The misspelled word “mishelin” has no meaning, and it is therefore obvious that the Respondent registered the disputed domain name with the intention of benefiting from the reputation of the MICHELIN trademark. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Finally, at the time of making this decision, the disputed domain name redirects to a parking page with pay-per-clicks links related to goods and services, such as tyres and route planning. The Complainant's mark is protected for the same goods and services. The Panel finds that by using the disputed domain name, which is confusingly similar to the Complainant's well-known mark, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark.

These findings lead the Panel to determine that the disputed domain name was registered and is being used in bad faith.

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 <mishelin.com> be transferred to the Complainant.

*/Indrek Eelmets/*

**Indrek Eelmets**

Sole Panelist

Date: July 25, 2024