

## **ADMINISTRATIVE PANEL DECISION**

### **Compagnie Générale des Etablissements Michelin v. Mohammad Nawaz Case No. D2024-4488**

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

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

The Respondent is Mohammad Nawaz, India.

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

The disputed domain name <michelin-info.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

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

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 31, 2024. On October 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 (Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 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 November 5, 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 November 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 26, 2024. The Respondent sent an email communication to the Center on November 8, 2024. The Complainant submitted a supplemental filing on

November 25, 2024, in response to the Respondent's communication. The Respondent sent another email communication on November 26, 2024, in response to the Complainant's supplemental filing.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on December 2, 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, with shares publicly traded on the Euronext Paris stock exchange and over the counter in New York. It is a world leader in manufacturing automobile tires and other automotive parts and accessories, as well as in producing maps, and travel, hotel, and restaurant guides. The Complainant uses its MICHELIN mark in connection with its worldwide sales of these products and operates websites using several domain names that consist of the MICHELIN mark, including <michelin.com> (since 1993). The Complainant has operated in India since 2014 with an expanding network of dealers, manufacturing facilities, a technology center, and a materials testing laboratory for research and development. The Complainant operates a website for the Indian market at "www.michelin.in".

The Complainant demonstrates that its mark is well advertised and that Internet searches on "michelin" produce pages of results concerning the Complainant before referring to anything else.

Among other trademark registrations, the Complainant holds the following:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
MICHELIN (word)	International (multiple designations)	348615	July 24, 1968	International Classes 1, 6, 7, 8, 9, 12, 16, 17, 20
MICHELIN (word)	International (multiple designations, including India)	1713161	June 13, 2022	International Classes 6, 7, 9, 12, 16, 20, 35, 37, 39, 41, 42
MICHELIN (word)	India	547411	March 19, 1991	International Class 16

The Registrar reports that the disputed domain name was created on September 15, 2024. The disputed domain name does not resolve to an active website, and the Internet Archive's Wayback Machine does not have any archived screenshots of a website associated with the disputed domain name.

The Complainant sent a cease-and-desist letter to the Respondent via online form through the Registrar on October 16, 2024, but received no response.

#### 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 identical or confusingly similar to its MICHELIN mark and that the addition of "the generic term 'info'" does not avoid confusion.

The Complainant denies any association with the Respondent and asserts that there is no evidence that the Respondent is known by a corresponding name or has used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant argues that the registration of the disputed domain name incorporating such a well-known trademark reflects opportunistic bad faith. The Complainant cites the “passive holding” doctrine of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and following decisions for the principle that the Respondent’s holding of the disputed domain name based on a widely known trademark, with no contemplated good-faith use, represents bad faith in the use of the disputed domain name for Policy purposes. The Complainant infers that the Respondent selected the disputed domain name to “capitalize” on the Complainant’s mark through initial interest confusion, to attract Internet users or to prevent the Complainant from using a domain name corresponding to its mark.

## **B. Respondent**

The Respondent did not submit a formal Response with the certification of completeness and accuracy required by Rule 5(c)(viii). The Panel must take that into account in assessing the statements made in the Respondent’s informal email communications to the Center.

In those communications, the Respondent did not challenge the Complainant’s trademarks (which the Respondent recognized as “notable”) but contended that there was no confusion with the Complainant’s brand because the Respondent intended to use the disputed domain name for a website aimed at a different audience, creating a website with original cartoon content for children centered around two characters, “Miche” and “Lin”, engaged in entertaining and educational stories. Thus, “[t]here is no overlap in terms of product, service, or audience, and therefore no reasonable basis for confusion”.

“I am aware of Michelin’s trademark and reputation in the automotive industry; however, my registration and use of michelin-info.com do not intersect with or infringe upon Michelin’s established brand identity or consumer base.”

The Respondent states that he has made “significant preparations and investments in building this website, including creating content specifically for children”. The website remains “inactive only temporarily” as “we are in the final stage of content development”.

The Respondent provided no evidence in support of his contentions.

## **6. Discussion and Findings**

### **6a. Preliminary Matter: Supplemental Filings**

Unsolicited additional filings may entail delay and are not encouraged in UDRP proceedings. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.6. Here, the Complainant submitted a reply to the Respondent’s claim to legitimate interests based on preparing to publish a cartoon website. The Respondent sent another communication reaffirming the Respondent’s good-faith interest in developing such a website (but attaching no proof), and the Complainant responded with further observations.

The Complainant’s first reply was brief and warranted, as the then-unidentified Respondent’s argument could not have been known at the time the Complaint was filed. The subsequent filings shed little additional light on the issues. If the Respondent wished to establish rights or legitimate interests, the Respondent had ample opportunity to submit evidence but has only repeated unsupported assertions. Supplemental filings are not meant simply to provide a forum for reargument, and the Panel accepts these submissions only to the extent that they offer material new evidence and discussion on the question of the Respondent’s claim to a legitimate interest in the disputed domain name.

## **6b. Substantive Issues**

### **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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark (MICHELIN) 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 terms (here, "-info") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [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.

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 claims to be preparing a children's website based on cartoon characters named "Miche" and "Lin", but the Respondent has furnished no evidence of demonstrable plans for such commercial use (Policy, paragraph 4(c)(i)), nor is there evidence of legitimate noncommercial or fair use (Policy, paragraph 4(c)(iii)). Mere assertions of intent are insufficient to establish such rights or interests, and in the present circumstances the Panel finds such claims implausible. [WIPO Overview 3.0](#), section 2.2. In any event, the Panel considers that the composition of the disputed domain name, incorporating the Complainant's well-known mark and the descriptive term "-info", carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

As numerous previous UDRP panels have observed, the MICHELIN mark is long established and widely known worldwide, and the record in this proceeding shows that it has been established in the Indian market for many years. The Panel notes that the Respondent does not challenge the Complainant's trademark rights and does not deny prior awareness of the Complainant's MICHELIN mark. Instead, the Respondent argues that its planned children's website is different from the Complainant's business and so would avoid confusion. Of course, even if this is truly the Respondent's intent, it would not avoid initial confusion that could attract Internet users to a website associated with the disputed domain name by falsely implying association with the Complainant.

The Respondent has not yet mounted a commercial website associated with the confusingly similar disputed domain name, and while 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, other circumstances also 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.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and strong reputation of the Complainant's trademark, as well as the composition of the disputed domain name, which incorporates the mark entirely and simply adds "-info". That term is often used to signify a source of more information about the principal term and by no means distinguishes the disputed domain name from association with the Complainant. The Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Respondent has failed to establish a plausible good-faith reason for registering and using the disputed domain name incorporating the Complainant's distinctive and well-known trademark, as discussed in the previous section. There is no evidentiary support for a supposed cartoon website based on characters whose names happen to combine to comprise the identical string as the Complainant's mark, nor any explanation for appending the term "info" to such a string for a children's website. The greater likelihood is that the Respondent selected the disputed domain name in an opportunistic attempt ultimately to capitalize, in one way or another on the Complainant's well-known trademark.

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 <michelin-info.com> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: December 15, 2024