

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. 哈尔滨市慧隆汽车轮胎
养护中心 (haerbinshihuilongqicheluntaiyanghuzhongxin)

Case No. DSC2023-0001

1. The Parties

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

The Respondent is 哈尔滨市慧隆汽车轮胎养护中心 (haerbinshihuilongqicheluntaiyanghuzhongxin), China.

2. The Domain Name and Registrar

The disputed domain name <michelin.sc> is registered with Todaynic.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2023. On January 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 6, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On February 7, 2023, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on February 7, 2023. The Respondent did not comment on the language of the proceeding.

The Center verified that the 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 in English and Chinese of the Complaint, and the proceedings commenced on February 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 8, 2023. 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 global tire company headquartered in Clermont-Ferrand, France. It is present in 171 countries, has 114,000 employees, operates 69 tire manufacturing facilities, and is also active in the Respondent's location, China, through several of its subsidiaries.

The Complainant owns an extensive international trademark portfolio for the mark MICHELIN, including the following registrations: Chinese trademark registration number 15961294 for MICHELIN, dated March 7, 2016; and International trademark registration number 771031 for MICHELIN, registered on June 11, 2001, and designating, among others, China, Spain, Viet Nam, and Singapore. The Complainant also owns a number of official domain names which contain its trademark MICHELIN, including <michelin.com> registered on December 1, 1993.

The disputed domain name was registered on January 24, 2015, and is therefore of a later date than the International trademark registration of the Complainant. The Complainant submits evidence that the disputed domain name directs to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for MICHELIN, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are intensively used and well known and provides evidence of its marketing materials and search engine results for the disputed domain name. The Complainant also refers to a number of prior UDRP decisions in which earlier panels have recognized the Complainant's rights in the MICHELIN marks and considered such marks are internationally well-known trademarks, see for instance *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#). The Complainant particularly contends that the Respondent is holding the disputed domain name passively, without making any use of it and without making any reasonable and demonstrable preparations to use the disputed domain name. The Complainant also argues that given the international fame of its trademarks, the Respondent cannot have been unaware of them at the time of registration of the disputed domain name. Moreover, the Complainant contends that it is likely that the Respondent registered the disputed domain name to prevent the Complainant from reflecting its trademarks in the disputed domain name. The Complainant essentially concludes that there are no justifications for such registration and use of its trademarks in the disputed domain name and that such registration and use are made in bad faith.

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

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering the language of this proceeding, the Panel has carefully taken into account all elements of this case, and considers the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited in a timely manner by the Center to present its response and arguments in either English or Chinese, but chose not to do so); the fact that the disputed domain name contains the Complainant's MICHELIN trademark in its entirety, and that it is written in Latin letters and not in Chinese characters; and, finally, the fact that Chinese as the language of this proceeding could lead to unwarranted delays of the proceeding and costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

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

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has valid rights in the mark MICHELIN, based on its use and registration of the same as a trademark.

Moreover, as to whether the disputed domain name is identical to, or confusing similar with the Complainant's trademarks, the Panel considers that the disputed domain name consists only of the Complainant's MICHELIN trademark with no other elements or adaptations. The Panel notes that the applicable country code Top-Level Domain ("ccTLD"), which is ".sc" in this case, is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)"), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's trademarks, and finds that the Complainant has satisfied the requirements for the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making a legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, reviewing the facts of this proceeding, the Panel notes that the disputed domain name directs to an inactive webpage and that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Panel therefore finds that the Respondent is holding the disputed domain name merely passively, without making any use of it, and that this does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#) and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and finds that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the registration of the disputed domain name, which is identical to the Complainant's internationally well-known trademark for MICHELIN, is clearly intended to mislead and divert consumers away from the Complainant's official website to a website which may be linked to the disputed domain name by the Respondent. The Panel also considers that the Complainant's MICHELIN trademarks became well-known many years prior to the Respondent's registration and use of the disputed domain name (see for instance *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#)). Moreover, the Respondent is 哈尔滨市慧隆汽车轮胎养护中心 (haerbinshihuilongqicheluntaiyanghuzhongxin), which appears to be an entity providing tire-repairing services. Based on this fact, the Panel finds that the Respondent's registration of the disputed domain name constitutes an intentional attempt to target the Complainant's well-known trademark, of which it could not reasonably be unaware. These findings are reinforced by the Complainant's evidence showing the relevant search engine results which make it clear that even a cursory Internet search at the time of registration of the disputed domain name would have shown that the Complainant owned the registered trademarks in MICHELIN and uses them extensively. Based on the above elements, the Panel finds that the registration of the disputed domain name was obtained in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an inactive website. In this regard, the [WIPO Overview 3.0](#), section 3.3 provides: "From the inception of the UDRP, panelists 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." The Panel has reviewed all elements of this case, and attributes particular relevance to the following elements: the fact that the disputed domain name is identical to the Complainant's trademarks for MICHELIN, the international fame and high degree of distinctiveness of the Complainant's trademarks, and the unlikelihood of any good-faith use to which the disputed domain name might be put by the Respondent. In these circumstances, the Panel considers that the passive holding of the disputed domain name by the Respondent constitutes use in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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 <micelin.sc> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: March 16, 2023