

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Khan B  
Case No. D2022-4346

### **1. The Parties**

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

The Respondent is Khan B, India.

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

The disputed domain name <michelinmotorsports.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 November 15, 2022. On November 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 2022, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 2022 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 25, 2022.

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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 21, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on January 5, 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, Compagnie Générale des Etablissements Michelin (“Michelin”), is a global leader in the world of tires, established since 1889. The Complainant has activities around the world, being present in over 170 countries, having over 124,000 employees.

The Complainant operates 117 tire manufacturing facilities and sales in 26 different countries, including in the United States, as shown by Annex 3 to the Complaint. The same Annex 3 to the Complaint brings evidence of the contribution of the Complainant in the field of mobility and human progress.

Also, Annex 3 to the Complaint lists several prizes and awards given to the Complainant throughout the years, as well as evidence of the renown travel guides launched by the Complainant in 1920, which are renown and famous until today, especially regarding the rating of restaurants and hotels around the globe.

As shown in Annex 4 to the Complaint, the Complainant owns several registrations for the mark MICHELIN throughout the world, with attention to the registrations granted in the United States as well as the international registration, including the United States registration No. 0892045, registered on June 2, 1970, covering goods from International Class 12.

The Complainant has registered a comprehensive number of domain names incorporating the mark MICHELIN. Among these, it is important to mention the domain names <michelin.com>, registered in 1993, and <michelinmotorsport.com>, registered since 2012. Evidence of these registrations appear as Annex 5 to the Complaint.

The disputed domain name was registered on August 3, 2022 and is directed to an inactive page, with several email servers configured.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain name <michelinmotorsports.com> is confusingly similar to the Complainant’s mark registered and used worldwide. In fact, the disputed domain name is composed by the mark “MICHELIN”, which is identical to the Complainant’s registered mark.

The expression chosen by the Respondent to compose the disputed domain name together with the mark “MICHELIN” is “motorsports”, which is directly related to the Complainant’s core business. The descriptive term does not negate the confusing similarity between the disputed domain name and the Complainant’s trademark. On the contrary, they lead to confusion, given the presence of the Complainant’s mark.

It certainly may lead the consumer to consider it an official page of the Complainant, as it differs from just one letter from one of the domain names owned by the Complainant, namely <michelinmotorsport.com> - the difference, as it shows, is just one extra letter “s”.

The disputed domain name adopted by the Respondent – a reproduction of the Complainant’s registered mark associated with a descriptive expression – shows a clear intention of misleading Internet users, despite the fact that it directs to an inactive page, with several email servers configured, as seen in Annex 1 to the Complaint.

The Complainant informs that before starting this proceeding it made efforts to resolve the matter amicably, by addressing a cease and desist letter via email to the other party, as well as several reminders. All remained unanswered. All evidence of these allegations are shown in Annex 6 to the Complaint.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- 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 to 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**

Regarding the first of the elements, the Panel is satisfied that the Complainant has presented adequate proof of having rights in the mark MICHELIN, which is registered and clearly used regularly throughout the world.

Further, the Panel finds that the disputed domain name is confusingly similar to the trademark belonging to the Complainant, since this mark is entirely reproduced in the disputed domain name registered by the Respondent with the addition of descriptive term "motorsports" – differing by one "s" from one of the domain names owned by the Complainant.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Further, it is well established that ".com", as a generic Top Level Domain, may be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's mark (section 1.11.1 of the [WIPO Overview 3.0](#)).

Hence, the Panel concludes that the first element of the Policy has been satisfied by the Complainant in this dispute.

### **B. Rights or Legitimate Interests**

The Panel understands that the mark MICHELIN is naturally associated with the Complainant, since it is not only registered as a mark in its name, but also has been used to identify the goods and services rendered by the Complainant for more than a century.

Further, the Complainant provided evidence of the renown of the mark MICHELIN and the full range of products and services rendered under this name, such as tires and other related goods and services, as well as the internationally renowned travel and restaurant guides.

Hence, the Panel considers that the Respondent, in all likelihood, could not be unaware of the mark MICHELIN, and its direct relation to the Complainant.

It has also been shown that the Respondent is not making any direct use of the disputed domain name, noting the disputed domain name does not resolve to an active website. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, nor a *bona fide* offering of goods or services.

The Panel is satisfied that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name. This has not been rebutted by the Respondent.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel believes that the Complainant has satisfied the second element of the Policy.

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

It is clear to the Panel that the Respondent has in all probability registered the disputed domain name with the purpose of taking advantage of the Complainant's mark.

The Panel finds that the disputed domain name was likely registered to mislead consumers – hence the addition of the term “motorsports”. Further, the additional term can surely be related to the Complainant's core business. In addition, the fact that the Complainant owns a domain name virtually identical to the disputed one, differing for just one “s”, enhances the evidence of bad faith.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name may be intended for illegitimate purposes.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved 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, < MichelinMotorsports.com >, be transferred to the Complainant.

*/Alvaro Loureiro Oliveira/*

**Alvaro Loureiro Oliveira**

Sole Panelist

Date: January 20, 2023