

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. 蒋志辉 (Zhi Hui Jiang)  
Case No. D2022-3732

### **1. The Parties**

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

The Respondent is 蒋志辉 (Zhi Hui Jiang), China.

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

The disputed domain name <metamichelin.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 6, 2022. On October 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 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 in English on October 18, 2022.

On October 17, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On October 18, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on October 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 18, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on November 23, 2022. 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 more than 170 countries, has 112,300 employees and operates 68 production plants in 17 different countries, 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 136402 for MICHELIN, first registered on April 5, 1980; and International trademark registration number 771031 for MICHELIN, registered on June 11, 2001, and designating, among others, China, Russian Federation, 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 February 18, 2022, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name directs to an active website where the disputed domain name is offered for sale.

The Complainant provides evidence that it attempted to settle this matter amicably through its cease-and-desist letter of August 10, 2022 sent to the Registrar, requesting the Respondent to transfer the disputed domain name free of charge. The Complainant also attempted to contact the Respondent through the online form available on the Whois database. The Complainant received no response from the Respondent.

#### **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 and Michelin Recherche et Technique S.A. v. Ejijobara Obara*, WIPO Case No. [D2012-0047](#). The Complainant particularly contends that the Respondent cannot assert that he has made, or that he is currently making, a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain or to misleadingly divert consumers, or to tarnish the trademark at issue, in accordance with paragraph 4(c)(iii) of the Policy, since the disputed domain name redirects to a website that only offers it for sale. The Complainant also contends that there is no doubt concerning the Respondent's knowledge of the existence of the Complainant, its trademarks and activities at the time of the registration of the disputed domain name and that this means that the registration of the disputed domain name was conducted in bad faith. As to use in bad faith of the disputed domain name, the

Complainant argues that the disputed domain name resolves to a webpage offering it for sale and that it is more likely than not that the Respondent's primary motive in registering and using the disputed domain name was to capitalize on or otherwise take advantage of the Complainant's trademark rights, through the creation of initial interest of confusion. 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 and its amended 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; the fact that the website linked to the disputed domain name contains some English text such as "this domain name is for sale"; 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 shown that it has valid rights in the mark MICHELIN, based on its intensive use and registration of the same as trademarks in various jurisdictions, including in the jurisdiction where the Respondent is based, namely China.

Moreover, as to whether the disputed domain name is identical or confusingly similar to the Complainant's mark, in the Panel's opinion, the disputed domain name consists of two elements, namely the Complainant's registered trademark for MICHELIN, preceded by the term "meta". 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." The Panel concludes that the disputed domain name contains the entirety of the Complainant's trademark MICHELIN, and that the addition of the term "meta" does not prevent a finding of confusing similarity. The Panel also finds that the applicable generic Top-Level Domain ("gTLD") (".com" in this proceeding) is viewed as a standard registration requirement, and may as such be disregarded by the Panel. See in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark, and that the Complainant has satisfied the requirements of the first element under the Policy.

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

On the basis of the evidence and arguments submitted, the Panel finds 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, the Respondent did not provide any Response or evidence in this proceeding.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name directs to an active website where the disputed domain name is offered for sale, and that the Respondent makes no other use of the disputed domain name. In the Panel's view, this shows that the Respondent's intention was not to make any use of the disputed domain name as a *bona fide* provider of goods or services, nor to make legitimate noncommercial use or fair use of the disputed domain name. Instead, it shows the Respondent's intention to mislead and divert Internet users for commercial gain to a website offering the disputed domain name for sale, by taking unfair advantage of the goodwill and reputation of the Complainant's trademarks for MICHELIN. Furthermore, the Panel notes that the Respondent has never replied to the Complainant's cease-and-desist letter despite of reminders sent from the Complainant. The Panel deducts from this fact that the Respondent did not avail himself of his right to respond to the Complainant and considers this an additional element pointing to the Respondent's absence of rights or legitimate interests in the disputed domain name (see in this regard also earlier UDRP decisions such as *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#)).

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and 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 confusingly similar to the Complainant's internationally well-known trademark for MICHELIN and contains such mark in its entirety, is

clearly intended to mislead and divert consumers away from the Complainant's official website to the website linked to the disputed domain name. 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. Based on this fact, the Panel finds that the Respondent's registration of the disputed domain name constitutes a clearly intentional attempt to target the Complainant's well-known trademark, of which he 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 by the Respondent, the disputed domain name currently links to a website offering the disputed domain name for sale. This leads the Panel to conclude that the Respondent is using the disputed domain name to try to sell it to the Complainant, who is the owner of the corresponding trademark for MICHELIN, or to a competitor of the Complainant, possibly for valuable consideration in excess of the Respondent's costs directly related to the disputed domain name. The Panel considers that this constitutes direct evidence of bad faith of the Respondent under paragraph 4(b)(i) of the Policy.

Finally, the Respondent has failed to provide any response or evidence to establish his good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element 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, <metamichelin.com>, be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: December 5, 2022