

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Reza  
AhmadpourMobarakeh  
Case No. DIR2023-0011

### **1. The Parties**

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

The Respondent is Reza AhmadpourMobarakeh, Iran (Islamic Republic of).

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

The disputed domain name <michelin-lastik.ir> is registered with IRNIC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 15, 2023. On September 15, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On September 19, 2023, IRNIC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .ir Domain Name Dispute Resolution Policy (the “Policy” or “irDRP”), the Rules for .ir Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .ir Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 20, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was October 10, 2023. On October 11, 2023, the Center notified the Respondent’s default.

The Center appointed Kaya Köklü as the sole panelist in this matter on November 2, 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 long-standing French company that is specialized in tire manufacturing for the automotive industry. The Complainant's group of companies is active globally in more than 170 countries with more than 120,000 employees.

The Complainant is the owner of the trademark MICHELIN, which is registered in a large number of jurisdictions. According to the Complaint, the Complainant is, among many others, the registered owner of the European Union Trade Mark Registration No. 001791243, registered on October 24, 2001, and the International Trademark No. 771031, registered on June 11, 2001, both for MICHELIN and covering protection for various goods and services (Annex 4 to the Complaint).

Furthermore, the Complainant holds and operates its main company website at "www.michelin.com" (Annex 5 to the Complaint).

The disputed domain name <michelin-lastik.ir> was created on May 9, 2023.

The Respondent is reportedly located in Iran (Islamic Republic of).

Screenshots in the case file show that the disputed domain name initially resolved to a website in Persian language, which was used for purportedly offering tires of different origin that the Complainant (Annex 1 to the Complaint). On this website, the MICHELIN trademark was used without any visible disclaimer describing the (lack of) relationship between the Parties. On the contrary, the website contained a legal notice in Persian language stating that "the use of Michelin Tire is permitted only for non-commercial purposes and with reference to the source".

At the time of this Decision, the disputed domain name does not resolve to an active website anymore.

On July 13, 2023 (and followed by various reminders), the Complainant sent a cease-and-desist letter to the Respondent and tried to solve the dispute amicably by requesting a transfer of the disputed domain name (Annex 6 to the Complaint).

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for the requested transfer of the disputed domain name.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the irDRP lists three elements, which the Complainant must satisfy in order to succeed:

- (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 or is being used in bad faith.

The irDRP is a variation of the Uniform Domain Name Dispute Resolution Policy (the “UDRP”). The factors set forth in paragraph 4 of the irDRP are identical to those set forth in paragraph 4 of the UDRP with the exception that the irDRP requires a complainant to prove either bad faith registration or bad faith use of a domain name, and not both at the same time, as required by the UDRP.

Taking the above difference into account, and given the similarities between the irDRP and UDRP the Panel finds it useful to refer to UDRP jurisprudence, including reference to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where appropriate.

#### **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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the MICHELIN trademark for the purposes of the irDRP. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the MICHELIN mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant’s MICHELIN trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here “lastik” (which means “tire” in the Turkish/Persian language), may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s MICHELIN mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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. Furthermore, the nature of the disputed domain name, comprising the Complainant’s MICHELIN trademark and an additional descriptive term, indicates an awareness of the Complainant and its trademark and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

In the absence of a Response, 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.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered or 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/or use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered or used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration or use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel is convinced that the Respondent must have had the Complainant and its distinctive and widely known MICHELIN trademark in mind when registering the disputed domain name.

Furthermore, the disputed domain name has been used by the Respondent to mislead third parties in a false belief that the website associated to the disputed domain name is operated or at least endorsed by the Complainant. The attempt to impersonate the Complainant is not least indicated by the notice used on the website in Persian language stating that "the use of Michelin Tire is permitted only for non-commercial purposes and with reference to the source".

The use of the disputed domain name by impersonating the Complainant is a *per se* illegitimate activity that can never confer rights or legitimate interests on a respondent, and moreover such behaviour is manifestly considered evidence of bad faith.

Furthermore, the Panel accepts the failure of the Respondent to submit a response to the Complainant's contentions as well as the change of the use of the disputed domain name by the Respondent subsequent to the notice of the dispute as an additional indication for bad faith.

Based on the available record, the Panel therefore finds the third element of the irDRP has been established

### **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-lastik.ir> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: November 16, 2023