

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Private by Design, LLC  
/ WORLD ORDER

Case No. D2022-2690

### **1. The Parties**

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

The Respondent is Private by Design, LLC, United States of America ("United States") / WORLD ORDER, Spain.

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

The disputed domain names <michelin.cash>, <michelin.finance>, and <michelin.money> are registered with Porkbun LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 22, 2022. On July 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 23, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 28, 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 August 1, 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 paragraphs 2 and 4 of the Rules, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 2, 2022. In accordance with paragraph 5 of the Rules, the due date for Response was August 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 2, 2022.

The Center appointed Yuji Yamaguchi as the sole panelist in this matter on September 15, 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 paragraph 7 of the Rules.

#### **4. Factual Background**

The Complainant is a leading tire company which operates 117 tire manufacturing facilities in 26 countries and has a commercial presence in 170 countries and more than 124,000 employees worldwide. The Michelin brand is the top-selling tire brand worldwide and it is one of the most famous sources of innovation in the global tire industry.

The Complainant is the owner of registered MICHELIN trademarks (the “MICHELIN Trademarks”) including United States trademark registration Nos. 3329924 (registered on November 6, 2007) and 3684424 (registered on September 15, 2009, device mark with the “Michelin Man” mascot), and International trademark Nos. 771031 (registered on June 11, 2001) and 778878 (registered on March 18, 2002).

In addition, the Complainant operates the domain names <michelin.com> (registered on December 1, 1993) and <michelin.us> (registered on April 19, 2002), reflecting its MICHELIN Trademarks in order to promote its products and services.

The disputed domain names <michelin.cash>, <michelin.finance>, and <michelin.money> were all registered on April 27, 2022. According to the evidence submitted with the Complaint, all the three disputed domain names resolved to the Registrar’s websites on which they were offered for sale on the Registrar’s marketplace. At the time of this decision, the Registrar’s websites to which the disputed domain names <michelin.cash> and <michelin.money> resolve stopped offering them for sale, and the disputed domain name <michelin.finance> resolves to an inactive website.

#### **5. Parties’ Contentions**

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

The Complainant’s contentions may be summarized as follows:

The disputed domain names substantially reproduce the Complainant’s MICHELIN Trademarks in its entirety and does not associate it with any generic term that could reduce the risk of confusion among the Internet users. On the contrary, they differ only by the extensions. The Complainant is the owner of the official domain names <michelin.com> and <michelin.us> which increase the likelihood of confusion in the Internet users’ mind as they are constructed in the same manner and only changes in the Top-Level Domains (“TLDs”). Therefore, the public would reasonably assume that the disputed domain names would be owned by the Complainant or at least assume that it is related to the Complainant.

The Respondent is neither affiliated with the Complainant in any way nor has been authorized by the Complainant to use and register the Complainant’s MICHELIN Trademarks, or to seek registration of any domain name incorporating the MICHELIN Trademarks. Furthermore, the Respondent cannot claim prior rights or legitimate interests in the disputed domain names as the MICHELIN Trademarks precede the registration of the disputed domain names for years. Furthermore, email servers have been configured on the disputed domain names and thus, there might be a risk that the Respondent is engaged in a phishing scheme. So, the disputed domain names are not used in any type of legitimate business or services.

Bad faith can be found where the Respondent “knew or should have known” of the Complainant’s trademark rights and, nevertheless registered a domain name in which it had no rights or legitimate interest. It is implausible that the Respondent was unaware of the Complainant when the Respondent registered the

disputed domain names. A quick MICHELIN trademark search would have revealed to the Respondent the existence of the Complainant and its MICHELIN Trademarks. The Respondent's failure to do so is a contributory factor to its bad faith. Even supposing that the Respondent was not aware of the possibility of searching trademarks online before registering the disputed domain names, a simple search via Google or any other search engine using the keyword "Michelin" demonstrates that all first results relate to the Complainant's products or news. It is more likely than not that the Respondent's primary motive in registering and using the disputed domain names was to capitalize on or otherwise take advantage of the Complainant's trademark rights, through the creation of initial interest of confusion. It is likely that the Respondent registered the disputed domain names to prevent the Complainant from reflecting its MICHELIN Trademarks in the disputed domain names. This type of conduct constitutes evidence of the Respondent's bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must assert and prove the following three elements are present:

- (i) the disputed domain names are 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 of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### **A. Identical or Confusingly Similar**

The disputed domain names consist of the Second-Level Domains that are identical to the Complainant's MICHELIN Trademarks along with the generic TLDs ("gTLDs") ".cash", ".finance" and ".money". These gTLDs do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's MICHELIN Trademarks (see *ZB, N.A. v. Cade Farber, Autogross*, WIPO Case No. [D2018-2158](#) (<amazing.cash>); see also section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Panel finds that the disputed domain names are identical or confusingly similar to the Complainant's MICHELIN Trademarks.

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

As the Complainant asserts, there is no evidence that the Respondent is commonly known by the name "Michelin" or the disputed domain names. Moreover, the Complainant has not granted a license or authorization to the Respondent to use the MICHELIN Trademarks.

The Complainant attempted to contact the Registrant by sending a cease-and-desist email and several reminder emails via the Registrar in May and June of 2022. However, the Respondent has never replied to the Complainant's request nor has submitted any Response in this proceeding. Additionally, the Respondent stopped offering for sale the disputed domain names <michelin.cash> and <michelin.money> on the Registrar's webpages, and the disputed domain name <michelin.finance> resolves to an inactive website at the time of this decision.

Therefore, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and then the burden of production is shifted to the Respondent.

Since the Respondent has never defended its rights nor asserted any legitimate reason to register and use the disputed domain names, and no evidence of any rights or legitimate interests is presented before the Panel, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

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

The Complainant business and its MICHELIN Trademarks enjoy a worldwide reputation. The registrations of the Complainant's MICHELIN Trademarks significantly predate the registration dates of the disputed domain names. Thus, it is unlikely that the Respondent was not aware of the Complainant's MICHELIN Trademarks at the time of registration of the disputed domain names.

The Respondent used the websites to which the disputed domain names resolved, for offering for sale the disputed domain names <michelin.cash> and <michelin.money> at the price of USD 3,000, and the disputed domain name <michelin.finance> at the price of USD 5,000. The records show that this occurred on July 21, 2022, just before filing of the Complaint. Since the Respondent registered the disputed domain names on April 27, 2022, and the disputed domain names resolved to the Registrar's websites on which they were offered for sale, and then the Complainant first contacted the Respondent via the Registrar on May 2, 2022, the Respondent's primary purpose to register and use the disputed domain names have been to sell the disputed domain names presumably in excess of the Respondent's out-of-pocket costs directly related to the disputed domain names.

The disputed domain names were originally registered through the privacy service according to the Respondent's information in the public Whois database, and the automatic reply messages by the Registrar against the cease-and-desist emails from the Complainant indicated that the Registrar is not involved in "arbitrating trademark disputes in domain names". The Panel considers that the Respondent, conceals the Respondent's identity and such circumstances of this case confirm the bad faith finding (see *Ford Motor Company v. Privacy by Design, LLC / Shirley Randall, Transfer Broker, Registration Private, Domains By Proxy, LLC / Ipathy Venkata Rao, Usama Norat*, WIPO Case No. [D2022-0306](#); see also section 4.4.6 of the [WIPO Overview 3.0](#)).

The fact that the disputed domain names <michelin.cash> and <michelin.money> are no longer offered for sale, and the fact that currently the disputed domain name <michelin.finance> resolves to an inactive website, do not change the Panel's finding of bad faith.

Consequently, the Panel concludes that it is established that Respondent has registered and used the disputed domain names in bad faith.

### **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 names <michelin.cash>, <michelin.finance>, and <michelin.money> be transferred to the Complainant.

/Yuji Yamaguchi/

**Yuji Yamaguchi**

Sole Panelist

Date: September 29, 2022