

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Lenny Ryan Beverdere  
Case No. D2024-1966

### **1. The Parties**

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

The Respondent is Lenny Ryan Beverdere, United States of America ("US").

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

The disputed domain name <michelin-man.xyz> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 10, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 2024, 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 (Redacted for privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 14, 2024, 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 May 14, 2024.

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 May 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 10, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on June 11, 2024. 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 well-known French company, which manufactures and sells tires for a wide range of vehicles, as well as producing road maps and publishing restaurant guides.

The Complainant's Michelin Guide was first published in 1920 and it has now sold million copies, while the so-called "Michelin Man" ("Bibendum" logo) - the Complainant's official mascot - was introduced at the Lyon Exhibition back in 1894 and it is one of the world's oldest trademarks.

The Complainant is the owner of several trademarks for MICHELIN including:

- International Trademark Registration MICHELIN No. 771031, dated June 11, 2001;
- US Trademark Registration MICHELIN (device) No. 3684424, dated September 15, 2009;
- European Union Trademark Registration MICHELIN No. 001791243, dated October 24, 2001.

The Complainant is also the owner of several domain names including the trademark MICHELIN, such as the domain name <michelin.com> registered on December 1, 1993, and <michelinman.com> registered on November 6, 2001.

The disputed domain name was registered on January 27, 2024, and it resolves to an inactive website. The Complainant has provided evidence showing that e-mail servers are configured on the disputed domain name.

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

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

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

The Complainant affirms that the disputed domain name is identical or highly confusingly similar to the Complainant's MICHELIN trademark, as it reproduces it in its entirety, with the mere addition of the term "man", which would demonstrate a clear and direct reference to the Complainant's mascot "Michelin Man".

The Complainant submits that the Respondent is neither a licensee of the Complainant nor is it affiliated with the Complainant in any way. The Complainant says that it has not authorized the Respondent to make any use of its MICHELIN trademark. Lastly, the Complainant says that there is no evidence to suggest that the Respondent is commonly known by the disputed domain name, as intended under paragraph 4(c)(ii) of the Policy.

Furthermore, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith, as - taking into account the worldwide fame of the Complainant's MICHELIN mark - there is no chance of the disputed domain name having been registered by the Respondent by simple coincidence. Furthermore, whilst the disputed domain name resolves to an inactive webpage, under the doctrine of passive holding the Respondent's bad faith remains unchanged.

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

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".xyz" in the case of the disputed domain name, is usually disregarded when assessing confusing similarity.

The Complainant's MICHELIN mark is reproduced in its entirety within the disputed domain name and is clearly recognizable in it. In these circumstances, the addition of the word "man" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's mark for the purposes of the Policy, see the [WIPO Overview 3.0](#), section 1.8.

For the above reasons, based on the available record, the Panel finds that 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available 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. 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.

Moreover, the Panel finds that the nature of the disputed domain name incorporating the Complainant's trademark and the term "man" carries a risk of implied affiliation, taking also into account that the Complainant's well-known mascot is recognized by the public as the "Michelin Man".

The Panel finds the second element of the Policy has been established.

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

In the present case, the Panel notes that the Respondent clearly had the MICHELIN trademark in mind while registering the disputed domain name, as the latter exactly reproduces the name “Michelin Man” which is obviously attributable to the Complainant’s well-known mascot.

There is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name incorporating the distinctive MICHELIN trademark with the addition of the term “man”, unless there was an intention to create a likelihood of confusion between the disputed domain name and the MICHELIN trademark from which the Respondent would likely benefit.

In this regard, the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel noting the reputation of the Complainant’s trademark and the failure of the Respondent to submit a response, finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established 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 <michelin-man.xyz> be transferred to the Complainant.

*/Tommaso La Scala/*

**Tommaso La Scala**

Sole Panelist

Date: June 24, 2024