

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. OUSSAMA MASRI  
Case No. D2024-4869

### **1. The Parties**

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

The Respondent is OUSSAMA MASRI, Lebanon.

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

The disputed domain name <michelin.market> is registered with RU-CENTER (Regional Network Information Center, JSC dba RU-CENTER) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 26, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 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 protection service - whoisproxy.ru) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 28, 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 November 29, 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 December 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 24, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on December 30, 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 was established in 1889. It manufactures tires for cars, trucks, motorcycles and airplanes, and provides digital services, maps and guides. In 1920, the Complainant started publishing the annual MICHELIN Guide, which ranks fine dining establishments by awarding “Michelin Stars” to restaurants and hotels around the world. The Complainant has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries.

The Complainant is the owner of a number of trademark registrations for MICHELIN (the “MICHELIN Trademark”), including the International Trademark MICHELIN with registration No. 771031, registered on June 11, 2001 for many jurisdictions, including the Russian Federation, for goods and services in International Classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42.

The Complainant is also the owner of a number of domain names, including <michelin.com>, registered on December 1, 1993, which resolves to its official website, and <michelin.ru>, registered on November 20, 1998, which resolves to its Russian language website.

There is no information about the Respondent and its activities.

The disputed domain name was registered on May 21, 2024. It resolves to a Russian language website that displays the Complainant’s trademark, logo and visuals, and provides information about certain products of the Complainant. The bottom section of the website contains links to the Russian language websites of Russian distributors and dealers of spare parts for cars and trucks by various manufacturers.

#### **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 states that the disputed domain name is identical to its MICHELIN Trademark, because it reproduces this trademark entirely with the addition of the “.market” generic Top-Level Domain (“gTLD”). The Complainant adds that the composition of the disputed domain name can mislead Internet users into believing that the disputed domain name is connected with the Complainant or will direct them to the Complainant’s official website.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not affiliated with the Complainant and has not been authorized by the same to use the MICHELIN Trademark or to register a domain name incorporating it.

The Complainant submits that the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services, because it resolves to a website that creates a false appearance of an affiliation with the Complainant through the use of various MICHELIN visuals and alleged products, which may lead Internet users to wrongly believe that the website at the disputed domain name is an official website of the Complainant. The Complainant adds that the Respondent is not accurately disclosing its relationship with the Complainant but falsely suggests that it is the trademark owner and that the website at the disputed domain name is an official website of the Complainant. According to the Complainant, the

Respondent is thus making an illegitimate use of the disputed domain name with an intent for commercial gain to misleadingly divert consumers from the Complainant's official website. The Complainant notes that it attempted to contact the Respondent by sending a cease-and-desist letter and several reminders, but the Respondent never replied.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It points out that its MICHELIN Trademark had been registered for a long period of time before the registration of the disputed domain name and submits that the same trademark is well-known throughout the world, including in the United Arab Emirates, where the Respondent indicates to be located. According to it, since the composition of the disputed domain name entirely reproduces the MICHELIN Trademark, the Respondent must have been aware of the Complainant when it registered the disputed domain name and could not have chosen the same for any reason other than to deliberately cause confusion amongst Internet users as to its source in order to take unfair advantage of the Complainant's goodwill and reputation. The Complainant submits that the Respondent's intent is evident from the content of the website at the disputed domain name, which is made to appear as an official website of the Complainant.

The Complainant adds that the Respondent has provided incorrect contact details, because the indicated city, state and zip code are located in Dubai, while the country is identified as Lebanon, and the provided phone number code is for the Russian Federation.

## **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.

The Complainant has shown rights in respect of the MICHELIN Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the MICHELIN Trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the MICHELIN Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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.

As discussed in section 2.8 of the [WIPO Overview 3.0](#), panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods or services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

Cases applying the Oki Data test usually involve a domain name comprising a trademark plus a descriptive term at the second level or the top level. At the same time, the risk of misrepresentation has led panels to find that a respondent lacks rights or legitimate interests in cases involving a domain name identical to the complainant's trademark. While it remains unclear from the evidence provided by the Complainant whether the website at the disputed domain name directly offers the goods or services at issue, the Panel notes that the composition of the disputed domain name which is identical to the Complainant's widely known MICHELIN Trademark coupled with its use to resolve to a website displaying the Complainant's trademark, logo and visuals, and providing information about certain products of the Complainant, and in the absence of any Respondent's explanation as to its intentions towards the disputed domain name, suggests the Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant as to the origin or affiliation of the website at the dispute domain name.

Furthermore, even if the Oki Data test is applied to the conduct of the Respondent, that would still lead to a conclusion that it does not have rights or legitimate interests in the disputed domain name, since the Respondent does not comply with at least one of the cumulative requirements of this test. The website at the disputed domain name contains no disclaimer for the lack of affiliation with the Complainant. Moreover, it displays links to the websites of four Russian distributors and dealers of spare parts for cars and trucks, which appear to offer a wide variety of spare parts by different manufacturers other than the Complainant. Noting the lack of any authorization by the Complainant and the disputed domain name's impersonating content, such use of the disputed domain name cannot qualify as fair use.

Considering all the above, the Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name. The Panel therefore finds that 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.

The disputed domain name is identical to the Complainant's long-established and widely used trademark MICHELIN and was registered long after the trademark. The disputed domain name resolves to a website that features the MICHELIN Trademark and the Complainant's logo and displays information about some products of the Complainant without including a disclaimer for the lack of relationship with the Complainant. Notably, the website includes links to the websites of four Russian distributors and dealers of spare parts for cars and trucks which offer goods by various manufacturers different from the Complainant.

In view of the above, and in the absence of any plausible explanation by the Respondent supporting a different conclusion, the Panel finds that by registering and using the disputed domain name the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name and to the associated website by creating a likelihood of confusion with the Complainant's MICHELIN Trademark as to the source, affiliation or endorsement by the Complainant of the website at the disputed domain name. This supports a finding that the Respondent has registered and is using the disputed domain name in bad faith under paragraph 4(b)(iv) of 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.market> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: January 8, 2025