

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Berita Game
Case No. D2024-4903

1. The Parties

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

The Respondent is Berita Game, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <michellin.xyz> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2024. On November 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 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 December 2, 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 25, 2024.

The Center appointed Peter Kružliak as the sole panelist in this matter on January 6, 2025. 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 leading tire company established in 1889 and based in France. The Complainant has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including Indonesia. The Complainant is also known for its MICHELIN Guide launched in 1920, which presently rates 30,000 establishments in over 30 territories across the three continents and has been sold in more than 30 million copies worldwide.

The Complainant is the owner of inter alia the following MICHELIN trademark registrations:

- Indonesian trademark MICHELIN, number IDM000334670, registered on June 7, 2021, for goods in class 12;
- International trademark MICHELIN (word), number 1713161, registered on June 13, 2022 for goods and services in classes 6, 7, 9, 12, 16, 20, 35, 37, 39, 41, and 42, and protected in the following jurisdictions: Australia, Canada, India, Indonesia, Japan, Norway, the Russian Federation, Singapore, Republic of Korea, Switzerland, Thailand, Türkiye, United Arab Emirates, United Kingdom, and Viet Nam; and
- International trademark MICHELIN (word), number 771031, registered on June 11, 2001, duly renewed and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42, and protected in the following jurisdictions: Albania, Algeria, Armenia, Austria, Azerbaijan, Belarus, Benelux (Belgium, Netherlands (Kingdom of the), Luxembourg), Bosnia and Herzegovina, Bulgaria, China, Croatia, Czech Republic, Denmark, Egypt, Estonia, Finland, Georgia, Germany, Greece, Hungary, Iceland, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Moldova, Monaco, Montenegro, Morocco, North Macedonia, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Türkiye, Turkmenistan, Ukraine, United Kingdom, Uzbekistan, and Viet Nam.

(the “MICHELIN trademark”)

The Complainant registered the domain names <michelin.com> on December 1, 1993, and also indicated numerous UDRP panel decisions confirming the reputation and well-known character of the MICHELIN trademark.

The Respondent is an organization from Indonesia. The disputed domain name was created on January 2, 2024, and based on available record it resolved to different websites, including gambling services in Indonesia, pizzeria and social club in Australia, and accommodation in Nepal. On the day of decision, the website resolves to a website offering science journals accessible to Internet users for subscription fees.

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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its MICHELIN trademark since:

- the disputed domain name is reproducing the MICHELIN trademark with the addition of letter “l”, which as a case of typo-squatting - does not affect the finding of confusing similarity;

- the generic Top-Level Domain (“gTLD”) extension “.xyz” shall not be taken into consideration for the purposes of examining identity or confusing similarity with the Complainant’s trademark; and
- based on the extensive use of the MICHELIN trademark by the Complainant, it is likely that the disputed domain name could mislead Internet users into thinking that it is, in some way, associated with the Complainant.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name since:

- the Respondent is not affiliated with the Complainant and no authorization has been granted to the Respondent to make any use of the Complainant’s trademarks, consequently no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed;
- the Respondent did also not demonstrate use of or demonstrable preparations to use the disputed domain name or name corresponding to the disputed domain name in connection with a bona fide offering of goods or services;
- the composition of the disputed domain name constitutes clear evidence that the Respondent wishes to give an overall impression that the disputed domain name is related to the Complainant and misleadingly divert consumers for fraud or commercial gain;
- registering the disputed domain name that differs from the famous mark MICHELIN by only one letter, seeks to take advantage of users and as “typosquatting” does not constitute according to the previous panels a legitimate use of the disputed domain name; and
- since the Respondent has never replied to a cease-and-desist letter despite of several reminders, panels have repeatedly stated that when the respondent does not avail himself of his right to respond to the complainant, it can be assumed that the respondent has no rights or legitimate interests in the disputed domain name.

And finally, the Complainant submits that the disputed domain name has been registered and is being used in bad faith arguing that:

- it is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name, since the Complainant is well-known throughout the world, many UDRP panels have previously acknowledged the Complainant’s reputation worldwide, making it unlikely that the Respondent was not aware of the Complainants’ rights in said trademark;
- the composition of the disputed domain name entirely reproduces the Complainant’s trademark MICHELIN differing only in one letter and the extension from the Complainant’s official domain name, thus it cannot be inferred that the Respondent was unaware of the Complainant when it registered the disputed domain name and it constitutes a case of typosquatting, which is indicative of bad faith;
- a quick MICHELIN trademark search would have revealed to the Respondent the existence of the Complainant and its trademark. The Respondent’s failure to do so is a contributory factor to its bad faith;
- given the Complainant’s goodwill and renown, and the nature of the disputed domain name, the Respondent could simply not have chosen the disputed domain name 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, which clearly constitutes bad faith; and
- the Respondent cannot assert that it has made, or that it is currently making a legitimate non-commercial or fair use of the disputed domain name with the multiple redirections of the disputed domain name to various fraudulent and fake websites cannot be considered as use in good faith.

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 Panel finds that the MICHELIN trademark is recognizable within the disputed domain name. The additional letter "l" included in the MICHELIN trademark amounts to a case of typo-squatting, and as an obvious and possibly even intentional misspelling does not affect the finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9. Similarly, the gTLD is being disregarded in determining identity and confusing similarity. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name is confusingly similar 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.

Per the available record the disputed domain name resolved to different web pages of various very different industries, which cannot be considered according to the Panel as bona fide offering of goods or services considering the circumstances.

Furthermore, the available record does not show any trademark registrations or earlier relevant rights of the Respondent corresponding to the disputed domain name, nor the fact that the Respondent is commonly known by the disputed domain name.

Finally, there is no evidence to suggest that the use of the disputed domain name by the Respondent is legitimate noncommercial or fair use. The MICHELIN trademark has reputation and is well known, as repeatedly recognized by previous UDRP decisions (see for instance *Compagnie Générale des*

Etablissements Michelin v. Transure Enterprise Ltd, Host Master / Above.com Domain Privacy, WIPO Case No. [D2012-0045](#); *Compagnie Générale des Etablissements Michelin v. Vyacheslav Nechaev*, WIPO Case No. [D2012-0384](#); *Compagnie Générale des Etablissements Michelin v. Milan Kovac / Privacy--Protect.org*, WIPO Case No. [D2012-0634](#); *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#); *Compagnie Générale des Etablissements Michelin v. Oncu, Ibrahim Gonullu*, WIPO Case No. [D2014-1240](#); and *Compagnie Générale des Etablissements Michelin v. Way Su*, WIPO Case No. [D2016-2221](#) indicated by the Complainant and also recent ones such as *Compagnie Générale des Etablissements Michelin v. chen zi meng*, WIPO Case No. [D2024-3786](#); *Compagnie Générale des Etablissements Michelin v. Mohammad Nawaz*, WIPO Case No. [D2024-4488](#); *Compagnie Générale des Etablissements Michelin v. Tanapon Bupphasawan*, WIPO Case No. [D2024-4606](#); and *Compagnie Générale des Etablissements Michelin v. OUSSAMA MASRI*, WIPO Case No. [D2024-4869](#)). According to the Panel, the previous use of the disputed domain name and its use on the day of decision, as well as its composition supports the finding that the Respondent was gaining or seeking reputational advantage from the Complainant's MICHELIN trademark for commercial gain, which prevents finding of any legitimate noncommercial or fair use on the part of the Respondent. [WIPO Overview 3.0](#), section 2.5.3.

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 first notes that the Complainant's MICHELIN trademark is registered in many jurisdictions globally, enjoys reputation and is globally well known, as recognized by numerous earlier UDRP decisions (see above), thus, it does not seem conceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's trademark. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity, particularly when containing typo such as in this case, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4. As a result, the Panel is of the opinion that the Respondent has registered the disputed domain name in bad faith.

As for the use of the disputed domain name, the Panel points out that according to the available record the disputed domain name resolved to different pages of various very different industries and considering the well-known nature of the MICHELIN trademark, the disputed domain name is according to the Panel also being used in bad faith, since it intentionally attempts to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark.

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 <michellin.xyz> be transferred to the Complainant.

/Peter Kružliak/

Peter Kružliak

Sole Panelist

Date: January 20, 2025