

## ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. 杨智超 (Zhichao Yang)  
Case No. D2022-4945

### 1. The Parties

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

The Respondent is 杨智超 (Zhichao Yang), China.

### 2. The Domain Name and Registrar

The disputed domain name <michelinrewardcenter.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 26, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 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 in English on December 27, 2022.

On December 27, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese, and the proceedings commenced on January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default in English and Chinese on January 26, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on February 3, 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, headquartered in Clermont-Ferrand, France, is one of the world's leading tire companies. The Complainant specializes in designing and distributing tires, as well as providing digital services, maps and guides, and developing high-technology materials for the automobile industry. The Complainant's origins date back to 1889. The Complainant states that today, its group of companies is a leader in tire technology for every type of vehicle. The Complainant is present in 170 countries, has over 124,000 employees, and operates 117 tire manufacturing facilities and sales agencies in 26 countries. The Complainant has had a presence in China since 1988, employing more than 6,000 people in the country. It has four industrial sites producing passenger car and truck tires, including three in Shanghai.

The Complainant owns many trademark registrations for MICHELIN around the world, including these:

- International Trademark Registration No. 771031, registered on June 11, 2001 (which includes a designation of China); and
- International Trademark Registration No. 1245891 for MICHELIN, registered on December 10, 2014.

The Complainant also states it has owned the domain names <michelin.com> and <michelintyres.com> since December 1, 1993, and September 20, 1999, respectively.

The disputed domain name was registered on November 10, 2021, and resolves to a landing page which displays "Pay-Per-Click" links to third-party websites. The Complainant sent a cease and desist letter to the domain name registrant via the Registrar on November 24, 2021, asking for a transfer of the disputed domain name. Despite reminders sent, the Complainant did not receive any reply.

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

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

The disputed domain name is confusingly similar to the Complainant's registered MICHELIN mark. The disputed domain name reproduces the MICHELIN mark. The MICHELIN mark has been considered by panelists in previous UDRP cases to be a well-known trade mark. The addition of the terms "reward" and "center" do not prevent the likelihood of confusion with the Complainant's trade mark. The generic Top-Level Domain ("gTLD") ".com" is not to be taken into consideration when examining the identity or similarity between the Complainant's trade marks and the disputed domain name.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with the Complainant nor has the Complainant licensed or permitted the Respondent to use any of its trade marks or register the disputed domain name. The Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the MICHELIN trade mark preceded the registration of the disputed domain name by many years. The Respondent is not using

the disputed domain name in connection with a *bona fide* offering of goods or services and is not making a legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Respondent knew or should have known of the Complainant's trademark rights in MICHELIN which is a well-known trade mark. The disputed domain name is so obviously connected with the well-known MICHELIN trade mark that its use by the Respondent with no connection to the trade mark suggests opportunistic bad faith. For the same reason, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed by the Respondent. The Respondent is using the disputed domain name in order to intentionally attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the services offered on the Respondent's website. The Respondent's failure to reply to the cease and desist letter and reminders are indicative of the Respondent's bad faith registration and use.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

Paragraph 11 of the Rules provides that:

“(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

The language of the Registration Agreement in relation to the disputed domain name is Chinese. The Complainant requested that the language of the proceeding be English, for these reasons:

- (i) The Complainant, based in France, has no knowledge of Chinese. The Complainant would have to incur substantial costs for Chinese translations to be prepared, which are likely to be higher than the overall cost of the administrative proceedings. A delay in the proceeding would also result from having to translate the Complaint.
- (ii) The disputed domain name comprises English terms which strongly suggests that the Respondent has knowledge of English.

Having considered section 4.5.1 of the WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), which lists a number of scenarios which may warrant proceeding in a language other than that of the registration agreement, as well as the circumstances of this case, the Panel determines that it would be reasonable and appropriate for English be the language of the proceeding. The Panel notes that the landing page to which the disputed domain name resolves shows links which read “Rewards Program”, “Rewards Card”, and “Loyalty Program”. Hence, apart from the language of the disputed domain name, the content found on the said page is in English. Further, the Respondent chose not to participate in this proceeding despite the fact that all of the Center's communications with the Parties have been sent in English and Chinese. In the circumstances of this case, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint and accompanying annexes into Chinese and neither is evidence which suggests that the Respondent would be prejudiced by applying the use of English in the administrative proceeding.

## 6.2 Substantive Issues

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights.

The Complainant has provided evidence that it owns the MICHELIN trade mark.

The disputed domain name comprises the Complainant's MICHELIN mark in its entirety, with the addition of the terms "reward" and "center" and the gTLD ".com". It is well established that where the trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. (See section 1.8 of the [WIPO Overview 3.0](#).) The Complainant's MICHELIN mark is clearly recognizable in the disputed domain name. Further, it is well established that the gTLD ".com", as a standard registration requirement, is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trade mark in which the Complainant has rights. Accordingly, paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name ([WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Respondent has failed to assert any such rights or legitimate interests exist. The Complainant provided evidence that it owned rights in the MICHELIN trade mark long before the date that the disputed domain name was registered, and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trade mark.

The Respondent failed to rebut the *prima facie* case established by the Complainant. The Panel therefore concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

### C. Registered and Used in Bad Faith

A complainant must show that the respondent registered and is using the domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides examples of circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Respondent registered the disputed domain name long after the Complainant registered its MICHELIN trade mark. Given the notoriety of the Complainant's MICHELIN trade mark, it is highly unlikely that the Respondent did not know of the Complainant and its MICHELIN mark prior to the registration of the disputed domain name. The Panel is persuaded that the Respondent has attempted by the registration of the disputed domain name to confuse and/or mislead Internet users seeking or expecting to find the Complainant's website. Previous UDRP panels have ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

The Respondent did not submit a Response in this proceeding, nor any response to the Complainant's cease and desist letter, which are further indicators of the Respondent's bad faith registration and use.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith (as described in paragraph 4(b)(iv) 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 <michelinrewardcenter.com> be transferred to the Complainant.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: February 15, 2023