

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. gaojin  
Case No. D2023-5028

### **1. The Parties**

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

The Respondent is gaojin, China.

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

The disputed domain name <michelin-invest.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 2023, 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 December 5, 2023, 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 6, 2023.

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 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 28, 2023.

The Center appointed Roger Staub as the sole panelist in this matter on January 9, 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 the leading tire company worldwide and runs its business under the brand name MICHELIN. According to the Complainant's website "www.michelin.com", the Complainant is present in 170 countries, where it has more than 124,000 employees. It operates 117 tire manufacturing facilities and sales agencies in 26 countries. The Complainant entered the tire market back in 1889. In addition, the Complainant launched in 1920 the MICHELIN Guide in order to help motorists planning their trips. In 1926, the MICHELIN Guide began to award stars for fine dining establishments. According to the Complainant's website, the MICHELIN Guides have become bestsellers and now rate over 30,000 establishments in over 30 countries across three continents. More than 30 million MICHELIN Guides have been sold worldwide. The Complainant's contention that it is also known in Hong Kong, China, where 95 restaurants are recognized with MICHELIN stars, has not been contested by the Respondent.

The Complainant owns various trademark registrations consisting of the word "michelin" in many jurisdictions worldwide. The Complainant's portfolio of MICHELIN trademark registrations includes, *inter alia*, the following trademark registrations:

- International trademark No. 771031 for MICHELIN, registered on June 11, 2001, in Classes 5, 7-12, 16-18, 20, 21, 24, 25, 39, and 42, covering the following jurisdictions: Albania, Algeria, Armenia, Austria, Azerbaijan, Belarus, Benelux, Bosnia and Herzegovina, Bulgaria, China, Croatia, Czech Republic, Denmark, Egypt, Estonia, Finland, Georgia, Germany, Greece, Hungary, Iceland, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Monaco, Montenegro, Morocco, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia, Singapore, Slovakia, Slovenia, Spain, Switzerland, Tajikistan, Türkiye, Turkmenistan, Ukraine, United Kingdom, Uzbekistan, and Viet Nam;
- International trademark No. 1713161 for MICHELIN, registered on June 13, 2022, in Classes 6, 7, 9, 12, 16, 20, 35, 37, 39, 41, and 42, covering, *inter alia*, the following jurisdictions: Australia, Russian Federation, Switzerland, Türkiye, United Kingdom, Indonesia, Norway, Republic of Korea, Thailand, United Arab Emirates, and Viet Nam;
- Hong Kong, China trademark No. 302941939 for MICHELIN, registered on March 28, 2014, in Class 12.

Further, the Complainant has submitted evidence that it owns the domain names <michelin.com> (registered on December 1, 1993) and <michelininvest.com> (registered on March 24, 2023). The domain name <michelin.com> redirects to the Complainant's main website.

On June 1, 2023, the Complainant sent notifications to the Registrar and hosting provider, requesting the blocking of the disputed domain name and the deactivation of website to which the disputed domain resolves. The website was deactivated, but the Registrar did not comply with the Complainant's request to block the disputed domain name.

The disputed domain name was registered on May 24, 2023.

The disputed domain name resolved to a website reproducing the Complainant's logo, in particular its official mascot, the "Michelin Man", and displayed a membership list.. Upon the Complainant's actions, the disputed domain name currently resolves to an error page.

#### 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.

First, the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name substantially reproduces the Complainant's trademark in its entirety, which previous panels have considered to be "well-known" or "famous". The addition of the generic term "invest", intersected by a hyphen, is insufficient to avoid a likelihood of confusion. The generic term suggests that the website to which the disputed domain name resolved will provide information relating to the Complainant's business and investment opportunities. The disputed domain name is virtually identical to the Complainant's domain name <michelininvest.com> easing eventual typing error by Internet users.

Second, the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said mark. The Respondent has no prior rights or legitimate interest in the disputed domain name. The registration of the MICHELIN trademarks preceded the registration of the disputed domain name for years. Since the Complainant's MICHELIN trademark is famous, the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. The disputed domain name redirects to a web hosting control panel's default page, which cannot be considered as a use of the disputed domain name in connection with a *bona fide* offering of goods and services. It resolved to a website that creates a false affiliation with the Complainant due to the presence of the Complainant's logo and mascot on the website. Such imitation of the Complainant's website cannot provide the Respondent with rights or legitimate interests over the disputed domain name.

Third, the disputed domain name was registered and is being used in bad faith. It is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name. The Complainant is well-known throughout the world, including in Hong Kong, China, where the Respondent is located. As the disputed domain name entirely reproduces the Complainant's trademark MICHELIN, while the additional term "invest" directly targets the Complainant's official domain name, it cannot be inferred that the Respondent was unaware of the Complainant when it registered the disputed domain name. Further, the Complainant's MICHELIN trademark registrations significantly predate the registration date of the disputed domain name. The circumstances also support a finding that the Respondent uses the disputed domain name in bad faith. The composition of the disputed domain name evidences an intent to misleadingly divert consumers by taking unfair advantage of the goodwill and reputation of the Complainant's trademark. The Respondent used the disputed domain name reproducing a famous trademark to direct Internet users to its fraudulent website imitating the Complainant's logo and visuals without any authorization. The Internet users were invited to invest a specific amount and to share a referral link in order to get more commission rewards. The website also displayed a link for downloading an application relating to investments, creating a high security and phishing risk. Hence, the Respondent clearly aimed at stealing valuable information such as credit cards from the Complainant's clients. Moreover, there are two Telegram accounts that were associated with the former fraudulent site, which seem to be some kind of a game, potentially in the metaverse since all the currencies correspond to cryptocurrencies. Also, it is likely that the Respondent registered the disputed domain name to prevent the Complainant from using its trademarks in the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to the Policy, to qualify for a cancellation or transfer, the Complainant must prove each of the following:

First, the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Third, the disputed domain name has been registered and is being used in bad faith.

Since the Respondent did not submit a reply, the Panel may choose to accept the reasonable contentions of the Complainant as true. This Panel will determine whether those facts constitute a violation of the Policy that is sufficient to order the transfer of the disputed domain name (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

#### **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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms (here "invest") may bear on the assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

The Panel notes that the disputed domain name resolved to a website, which contained the Complainant's logo and official mascot. The Complainant submits that it has not authorized this use of its MICHELIN trademark. Visitors of the website, to which the disputed domain name resolves, are likely to believe that the website is run by the Complainant or with its authorization. Panels have held that a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner, which is the case here. [WIPO Overview 3.0](#), section 2.5. Further, Panels have also held that the use of a domain

name for illegal activity (here: potential phishing and fraud by means of inviting Internet users to invest money and to share a referral link in order to get more commission rewards) cannot confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Panels have held that the use of a domain name for illegal activity (here: potential phishing and other types of fraud) constitutes bad faith. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. The Panel notes that the Complainant submits as evidence screenshots of the website accessible under the disputed domain name, prior to its deactivation, showing an apparently malicious website. The Internet users were invited, *inter alia*, to invest money and MX records have been activated. The overall circumstances indicate that the disputed domain name may have been registered for phishing. Indeed, the contents of the website support the impression that the Respondent targeted the Complainant and is using this disputed domain name as a tool to attract, for commercial gain, Internet users to its website. Hence, circumstance 4(b)(iv) is given and suggests bad faith of the Respondent. [WIPO Overview 3.0](#), section 3.4.

This finding is supported by the other circumstances of the present case, which lead the Panel to the conclusion that the disputed domain name was registered and is used in bad faith: the disputed domain name incorporates the Complainant's trademark, which both is highly distinctive and well known. The Complainant is known under this trademark and name in many countries worldwide (also in the Respondent's reported country, where the Complainant has awarded MICHELIN stars to a significant number of restaurants). This distinctive and reputed trademark has been combined with a purely descriptive term ("invest"). On the website, which is accessible under the disputed domain name, consumers can see the Complainant's well-known logo although there is no legal and commercial connection between the Respondent and the Complainant. All this creates a likelihood of confusion. The Respondent failed to submit a response and, thus, any evidence of an actual or contemplated good faith use. Lastly, the Panel notes that the Respondent provided incomplete address information to the Registrar, which further supports a finding of bad faith.

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

## **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-invest.com> be transferred to the Complainant.

*/Roger Staub/*

**Roger Staub**

Sole Panelist

Date: January 23, 2024