

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. 高楚群 (Gao Chu Qun)
Case No. D2024-1122

1. The Parties

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

The Respondent is 高楚群 (Gao Chu Qun), China.

2. The Domain Name and Registrar

The disputed domain name <michelin.net> is registered with Hongkong Domain Name Information Management Co., Limited (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 14, 2024. On March 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on March 18, 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 in English on March 20, 2024.

On March 18, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 20, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on March 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 18, 2024.

The Center appointed Francine Tan as the sole panelist in this matter on April 24, 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 states that it is a leading tire company headquartered in Clermont-Ferrand, France. Founded in 1889, the Complainant operates 117 tire manufacturing facilities and sales agencies in 26 countries, with an employment headcount of over 124,000. In 1989, the Complainant opened its first representative office in Beijing, China. It opened its first manufacturing company in China in 1995. Since then, it has opened an R&D center in Shanghai and has a total investment in China exceeding USD 2 billion.

The Complainant owns many registrations for the trade mark MICHELIN worldwide, including the following:

- International Registration No. 771031, registered on June 11, 2001, designating among other jurisdictions, China;
- International Registration No. 1245891, registered on December 10, 2014, designating various jurisdictions; and
- China Registration No. 15961294, registered on March 7, 2016.

The Complainant operates various domain names including <michelin.com>, registered on December 1, 1993, and <michelin.net>, registered on March 8, 2000.

The disputed domain name was registered on September 22, 2023, and resolves to an inactive webpage.

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. It asserts the following:

- the disputed domain name is virtually identical or confusingly similar to the MICHELIN trade mark in which the Complainant has rights. The disputed domain name "imitates" the Complainant's MICHELIN trade mark. The addition of the letter "i" constitutes "typosquatting" and creates a likelihood of confusion with the Complainant's MICHELIN trade mark.
- the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, or by "Michelin". The Respondent is not affiliated with the Complainant. It has also not been authorized by the Complainant to use the latter's MICHELIN trade mark or to register the disputed domain name. The Complainant's MICHELIN trade mark has been registered for many years and predates the registration of the disputed domain name. The Respondent therefore cannot claim prior rights or legitimate interests in the disputed domain name. The disputed domain name resolves to an inactive page and there is nothing to show that there has been reasonable and demonstrable preparations to use the disputed domain name. The disputed domain name differs from the Complainant's official domain name <michelin.net> by only one letter and this evidences an attempt by the

Respondent at typosquatting. The Respondent did not respond to the Complainant's cease-and-desist letter and subsequent reminders, which is indicative that the Respondent does not have any rights or legitimate interests in the disputed domain name.

- the disputed domain name was registered and is being used in bad faith. The Complainant is well known throughout the world, including in China where the Respondent appears to be located. It is implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name. A simple search via Google for the keyword "Michelin" would have revealed search results relating to the Complainant and/or its products. The disputed domain name resolves to an inactive webpage, but this does not mean that its registration and use are in good faith. It is likely that the Respondent registered the disputed domain name to prevent the Complainant from using its trade marks in the disputed domain name. The Respondent also has not responded to the Complainant's cease-and-desist letter, which is another indicator of bad faith.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, namely:

- 1) the Complainant is located in France and has no knowledge of Chinese;
- 2) in order to proceed in Chinese, the Complainant would have to retain specialized translation services at a cost that is likely to be higher than the overall cost of the proceeding, and impose a significant burden on the Complainant;
- 3) the disputed domain name consists of only Latin characters, which strongly suggests that the Respondent has knowledge of languages other than Chinese; and
- 4) English is the primary language for international relations and is one of the working languages of the Center.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the language/script of the domain name particularly where the same as that of the complainant's mark, and potential unfairness or unwarranted delay in ordering the complainant to translate the complaint (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Panel is persuaded that the Respondent is likely to be conversant and/or familiar with the English language. Moreover, the Panel notes that the Respondent has chosen not to participate in this proceeding and that all of the Center's communications with the Parties have been sent in both English and Chinese.

On a balance of the competing interests, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese. There is no evidence that the Respondent would be

prejudiced by a determination that English would be adopted as the language of the proceeding, and the Respondent has not stated as such.

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of a trade mark for the purposes of the Policy.

The Panel finds that the Complainant's MICHELIN trade mark is recognizable within the disputed domain name and that there has been an intentional misspelling of the mark with an additional letter "i". [WIPO Overview 3.0](#), section 1.9. Accordingly, the Panel agrees that the disputed domain name is confusingly similar to the Complainant's MICHELIN trade mark.

The Panel finds the first element of paragraph 4(a) of the Policy has been established.

B. Rights or Legitimate Interests

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. 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 has no rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name and that he was licensed or authorized by the Complainant to use the MICHELIN trade mark or to register the disputed domain name. The Complainant's use and registrations of the MICHELIN trade mark long predate the registration date of the disputed domain name.

Paragraph 4(c) of the Policy provides a list of circumstances by which the Respondent may demonstrate rights or legitimate interests in the disputed domain name. The Respondent has, however, 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. Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds the second element of paragraph 4(a) of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel is not persuaded, bearing in mind the misspelling of the Complainant's MICHELIN trade mark in this case, that the Respondent registered the disputed domain name to prevent the Complainant from using its trade marks in the disputed domain name. Nevertheless, the Panel concludes that the disputed domain name was registered and is being used in bad faith.

The disputed domain name incorporates the entirety of the Complainant's distinctive and well-established trade mark with the addition of the letter "i". The MICHELIN trade mark has been registered for many years and extensively used, including in China where the Respondent appears to be based. Hence, the Panel finds it highly unlikely that the Respondent did not know of the Complainant and its MICHELIN trade mark at the time he registered the disputed domain name. The Panel finds that the combination of circumstances in this case can only lead to the conclusion that the Respondent registered and is using the disputed domain name in bad faith, namely:

- (i) the Respondent's absence of rights or legitimate interests in the disputed domain name;
- (ii) the well-known nature of the Complainant's MICHELIN trade mark;
- (iii) the typosquatting of the Complainant's MICHELIN trade mark; and
- (iv) the Respondent's failure to respond in this proceeding and to the Complainant's cease-and-desist letter and subsequent reminders.

The passive holding of the disputed domain name does not prevent a finding of bad faith registration and use considering (i) the degree of distinctiveness or reputation of the Complainant's mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the disputed domain name may be put. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the Complainant has established the third element of paragraph 4(a) 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 <michielin.net> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: May 3, 2024