

# **DISPUTE RESOLUTION SERVICE**

**D00022513**

## **Decision of Independent Expert**

Compagnie Générale des Etablissements Michelin

and

weimu zheng

### **1. The Parties:**

Complainant: Compagnie Générale des Établissements Michelin  
23 Place des Carmes-Déchaux  
Clermont-Ferrand  
Rhone-Alpes-Auvergne  
France

Respondent: weimu zheng  
baiyun qu qinglong zhonglu  
guangzhou  
guangdong  
510000  
China

### **2. The Domain Name:**

<vimichelin.co.uk> (“the Domain Name”)

### **3. Procedural History:**

I confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of such a nature as to call into question my independence in the eyes of either of the parties.

03 April 2020 11:38 Dispute received  
03 April 2020 16:43 Complaint validated  
03 April 2020 16:46 Notification of complaint sent to parties  
24 April 2020 02:30 Response reminder sent  
29 April 2020 12:11 No Response Received  
29 April 2020 12:11 Notification of no response sent to parties  
12 May 2020 02:30 Summary/full fee reminder sent  
13 May 2020 09:25 Expert decision payment received

### **4. Factual Background**

The Complainant is a well-known international tyre company based in France. It has traded under the “Michelin” name for well over 100 years. In 2001 it set up a digital travel assistance service under the name “viaMichelin”.

The Complainant is the registered proprietor of numerous trade mark registrations covering the MICHELIN name. For present purposes it is only necessary to mention one of them:

European Union Registration No. 001791243 MICHELIN (word) registered 24 October 2001 (application filed 3 August 2000) for a variety of goods in classes 6, 7, 12, 17 and 28.

The Complainant operates a website connected to its domain name, <michelin.com>, which it registered on 30 November 1993. It operates another website connected to its domain name, <viamichelin.com>, which it registered on 7 November 2000. It is the registrant of similar domain names in the “.uk” domain.

The Domain Name was registered on 6 June 2019 and is not currently connected to an active website accessible to the Expert. However, the Complainant has produced evidence to show that (a) on 1 October 2019 the Domain Name was connected to a parking page featuring advertising links and mentioning the

possibility that the Domain Name might be for sale; and (b) on 11 March 2020 it was connected to a website indicating that the Domain Name was for sale for USD 1,000.

On 25 October 2019 the Complainant wrote to the Respondent drawing the Respondent's attention to its trade mark rights and seeking *inter alia* transfer of the Domain Name. The Respondent did not respond. Nor was any response received to the follow-up emails sent to the Respondent on 4 November 2019, 11 November 2019 and 18 November 2019.

## **5. Parties' Contentions**

The Complainant contends that this is a blatant case of typosquatting. The Domain Name features the Complainant's well-known MICHELIN trade mark and is a contraction of the name under which the Complainant provides its digital travel assistance service, "viaMichelin". There is nothing to suggest that the Respondent has any right in respect of the name. It is not the Respondent's name and the only use that the Respondent has made of the Domain Name has been to connect it to a parking page with parking links and subsequently to a page indicating that it is up for sale for USD 1,000.

The Complainant further contends that the Domain Name has been set up with an email server, giving rise to the concern that the Domain Name will be used for 'phishing'.

The Respondent has not responded to the Complaint

## **6. Discussions and Findings**

### **General**

Pursuant to paragraph 2 of the Policy for the Complainant to succeed in this Complaint it must prove to the Expert on the balance of probabilities that:

*2.1.1 It has Rights in respect of a name or mark which is identical or similar to the Domain Name; and*

*2.1.2 The Domain Name, in the hands of the Respondent, is an Abusive Registration*

"Abusive Registration" is defined in paragraph 1 of the Policy as a domain name which either:

- i. *was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; or*
- ii. *is being or has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant's Rights.*

As noted above, the Respondent has not responded to the Complaint. Does this mean that the Complaint necessarily succeeds? No. For the Complaint to succeed the Complainant must still prove to the satisfaction of the Expert the matters set out in paragraphs 2.1.1 and 2.1.2 of the Policy and quoted above. However, pursuant to paragraph 24.8 of the Policy, the Expert will draw such inferences from the Respondent's failure to file a Response as he considers appropriate.

### **Rights**

Self-evidently the Complainant's MICHELIN trade mark is similar to the <vimichelin.co.uk> Domain Name and the Expert so finds.

### **Abusive Registration**

The Complainant's contentions are straightforward and supported by evidence to which the Respondent has not responded. The Domain Name is a meaningless term and features for the most part the Complainant's highly distinctive MICHELIN trade mark, preceded by "vi". The Complainant contends that in this context "vi" is an intended contraction of "via", "viaMichelin" being the name under which the Complainant provides its digital travel assistance service.

The Expert infers from the absence of any Response and the Respondent's failure to respond to any of the earlier communications sent on behalf of the Complainant that the Respondent has no answer to the Complainant's contentions.

The Respondent's first use made of the Domain Name was to connect it to a parking page featuring advertising links and at the top of the page a banner reading: "The domain vimichelin.co.uk may be for sale. Click here to inquire about this domain."

The Respondent's second use of the Domain Name was to connect it to a webpage headed: "Buy Vimichelin.co.uk For USD 1,000". The message below the heading reads: "The owner of Vimichelin.co.uk has chosen Escrow.com, a licensed U.S. escrow company, to process the sale of this domain."

Currently the Domain Name resolves to an error page.

Whether or not the fact that the Domain Name is set up with an email server is, as the Complainant contends, indicative of an intention on the part of the Respondent to use the Domain Name for 'phishing', the Expert is unable to say. However, the fact that the first two uses of the Domain Name were with a view to exploiting it commercially (i.e. for sale and/or advertising revenue) satisfies the Expert on the balance of probabilities that that was the Respondent's purpose in registering the Domain Name.

The fact that the Domain Name (i) is meaningless, (ii) has no obvious association with the Respondent and (iii) so closely resembles the name of the Complainant's digital travel assistance service, satisfies the Expert on the balance of probabilities that the Respondent's intention from the outset was to exploit the value of the Complainant's MICHELIN trade mark for the Respondent's own commercial benefit.

Thus the Expert finds that the Domain Name is an Abusive Registration on the basis that it was registered in a manner which, at the time when the registration took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights and that it has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant's Rights.

## **7. Decision**

The Expert directs that the Domain Name be transferred to the Complainant.

**Signed** Tony Willoughby

**Dated** 15 May 2020