

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Établissements Michelin v. Perfect Privacy, LLC /  
Milen Radumilo  
Case No. D2022-1105

### **1. The Parties**

The Complainant is Compagnie Générale des Établissements Michelin, France, represented by Tmark Conseils, France.

The Respondent is Perfect Privacy, LLC, United States of America / Milen Radumilo, Romania.

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

The disputed domain name <michelinstarrestaurants.com> is registered with SouthNames, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 31, 2022. On March 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 1, 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 April 6, 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 on April 6, 2022.

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 April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 10, 2022.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on May 18, 2022. 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 tire company, which also provides a hotel and restaurant reference guide, the “Michelin Guide”, also accessible through Internet at “<https://guide.michelin.com>”.

The Complainant owns trademark rights on the word mark MICHELIN through many registrations around the world and in particular through International Trademark Registration No. 1245891, MICHELIN, registered December 10, 2014, and European Union Trade Mark No. 13558366, MICHELIN, registered April 17, 2015, both covering services related to hospitality and in particular “multimedia publications in electronic form available online from databases in the field of travel, tourism and gastronomy or for services of editing and publication of guides”.

The disputed domain name <michelinstarrestaurants.com> was registered on August 07, 2021 and directs to different parking pages.

#### **5. Parties’ Contentions**

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

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its MICHELIN trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraphs 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable, and on the basis of the Complaint where no Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

(i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ([“WIPO Overview 3.0”](#)) and, where appropriate, will decide consistent with the consensus views captured therein.

#### **A. Identical or Confusingly Similar**

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the widely-known MICHELIN trademark, which has been first registered and used many decades ago.

The relevant part of the disputed domain name is “michelinstarrestaurants”, as it is well established in previous UDRP decisions that the added Top-Level Domain (“TLD”) – being a required element of every domain name – may be disregarded when assessing whether or not a domain name is identical or confusingly similar to a trademark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s MICHELIN trademark. The disputed domain name fully comprises the MICHELIN trademark in its entirety. As stated at section 1.8 of the [WIPO Overview 3.0](#), where a trademark is recognizable within a disputed domain name, the addition of other terms would not prevent a finding of confusing similarity.

Here, the addition of the words “star” and “restaurants” in the disputed domain name does not, in view of the Panel, prevent a finding of confusing similarity between the disputed domain name and the Complainant’s MICHELIN trademark.

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of “proving a negative”, in particular as the evidence needed to show the Respondent’s rights or legitimate interests is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy.

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly that the Respondent has no authorization to use the Complainant’s MICHELIN trademark in a confusingly similar way within the disputed domain name.

Furthermore, the Complainant has also demonstrated that the Respondent is not commonly known by the disputed domain name, or the names “michelin” or “michelin star restaurants”, and has not made, or made preparations for, a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

Moreover, the nature of the disputed domain name carries a risk of implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

In the absence of a Response, the Respondent has failed to demonstrate any of the non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name.

Therefore, the Panel concludes that the Respondent does not have rights or a legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

As the Complainant has described and proved, the trademark MICHELIN is well known and the trademark registrations covers, in particular, the European Union, including Romania, the country of the Respondent.

The Panel considers that in view of the reputation of the mark MICHELIN, the registration of the disputed domain name was inevitably done in bad faith, and that the Respondent was aware of the existence of the Complainant's prior rights when the disputed domain name was registered.

Furthermore, the Panel is also of the opinion that no explanation may be reasonably submitted to understand why the Respondent selected the disputed domain name other than to mislead Internet users and create a likelihood of confusion with the Complainant. The combination of the word "star" and "restaurants" with the well-known mark MICHELIN into the disputed domain name constitutes additional proof of bad faith considering that these words directly relates to the activities of the Complainant.

The evidence submitted by the Complainant shows a clear pattern of registration in bad faith from the Respondent, who shall be considered as a serial cybersquatter, since no less than 120 UDRP decisions concerning domain names reproducing or imitating well-known trademarks (including those of the Complainant and well-known third parties) have been rendered since 2015, involving the Respondent.

The fact that the Complainant's entire distinctive and well-known trademark MICHELIN is registered as part of the contested domain name renders it difficult to infer a legitimate use of the domain name by the Respondent. The choice to reproduce the distinctive and protected trademark MICHELIN cannot therefore be fortuitous.

The Panel also takes into account that the disputed domain name is used in bad faith. According to the case file, the Respondent makes commercial use of the disputed domain name, which incorporates the Complainant's trademark, by directing to different parking pages of commercial links related to restaurants and gastronomy that compete with or capitalize on the Complainant's trademark, which clearly demonstrates bad faith use. Moreover, the disputed domain name used to redirect to pornographic sites, which further supports a finding of bad faith.

Therefore, the Panel is of the opinion that the only purpose of the disputed domain name is to misleadingly divert Internet users to tarnish the Complainant's trademarks by directing them to pornographic content, and to attract Internet users to websites for commercial gain via parking pages by creating a likelihood of confusion with the Complainant's trademark, so that registration and use in bad faith is clearly established for the disputed domain name.

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name was registered and is being used in bad faith by the Respondent.

## **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 <michelinstarrestaurants.com> be transferred to the Complainant.

*/Ganna Prokhorova/*

**Ganna Prokhorova**

Sole Panelist

Date: June 1, 2022