

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues,  
Fundacion Comercio Electronico  
Case No. D2022-2938

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <viamichelline.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 9, 2022. On August 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 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 August 13, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint<sup>1</sup>. The Complainant filed an amended Complaint on August 16, 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 August 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2022.

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<sup>1</sup> At the time of the filing of the Complaint, the Respondent’s identity was masked by a privacy service.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on September 16, 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 Compagnie Générale des Etablissements Michelin (“Michelin”), a leading tire company, which is dedicated to enhancing its clients’ mobility, sustainably, designing and distributing the most suitable tires, services and solutions, providing digital services, maps and guides to help enrich trips and developing high technology materials that serve the mobility industry.

The Complainant is present in 170 countries, has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including United States.

In 2001, ViaMichelin was set up to develop digital services for travel assistance. These free services give users all the useful information they need to prepare their trips.

The Complainant is the owner of the following trademark registrations that comprise the trademark MICHELIN.

- United States trademark MICHELIN No. 3684424, registered on September 15, 2009, duly renewed and covering goods in classes 3, 5, 7, 8, 9, 11, 12, 16, 17, 20, 21, 24, 25, 27 and 28;
- United States trademark MICHELIN No. 3329924, registered on November 6, 2007, duly renewed and covering services in class 39;
- International MICHELIN Trademark No. 771031, registered on June 11, 2001, duly renewed, designating *inter alia* Iceland, Norway, Germany and Russian federation, and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 35, 39 and 42.

Moreover, the Complainant is the owner, among others, of the following domain names reflecting its trademarks in order to promote its services:

- <michelin.com> registered on December 1st, 1993;
- <viamichelin.com> registered on November 7, 2000.

The disputed domain name was registered on July 8, 2022 and redirects to a parking page displaying links directly targeting the Complainant’s field of activity and its trademark.

#### **5. Parties’ Contentions**

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

The Complainant argues that the disputed domain name is almost identical to the Complainant’s trademark MICHELIN which has become a distinctive identifier of its service offerings.

The Complainant argues that the disputed domain name is identical and/or confusingly similar to its well-known MICHELIN trademarks with the addition of the letter “l” in the middle of “Michelin” and the letter “e” at the end of it.

Moreover, the disputed domain name contains also the word “via” that the Complainant considers, identical to its domain name <viamichelin.com> and associated directly to its field of activity, in particular to its digital

travel assistance products and services for road users offered under the name Via Michelin.

The Complainant sent on June 13, 2022 notification to the hosting company, asserting its trademark rights and requesting the website deactivation and the deletion of their DNS from the disputed domain name <viamichelline.com> in order to deactivate it and secure the situation. Having sent several reminders, no response was received.

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name to advance legitimate interests.

The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including its trademarks. The Complainant submits that the disputed domain name has been registered and is being used in bad faith as it is redirecting to a parking page displaying links targeting the Complainant's field of activity and its trademark.

The Complainant requests that the disputed domain name be transferred to it.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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 was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

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

In the present case, the disputed domain name <viamichelline.com> is similar to the Complainant's registered well-known trademark MICHELIN.

The disputed domain name incorporates the MICHELIN trademark in its entirety, to which the letters "i" and "e" have been added, in addition to the word "via".

Section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that "[w]here the relevant trademark 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."

It is further understood that when a disputed domain name fully incorporates a complainant's registered mark, it is indicative of the disputed domain name being identical or confusingly similar.

The addition of the letters "i" and "e", and the word "via" to the Complainant's trademark, does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. See *Skyscanner Limited v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2019-2881](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the Complainant's mark.

Therefore, the Panel finds the first element of the Policy has been met.

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

According to the Policy, paragraph 4(a)(ii), the Complainant has to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

There is nothing in the available case file to suggest that the Respondent is in any way affiliated with the Complainant, nor has the Complainant authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

In *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#), the panel stated that: "in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by Respondent."

The Panel finds no evidence that the Respondent has used, or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Panel concludes, noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, that the second element of the Policy has, therefore, been met.

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

The Complainant contends that the Respondent's registration and use of the disputed domain name is in bad faith, which the Respondent did not rebut.

On the evidence adduced, it is improbable that the registrant of the disputed domain name was unaware of the Complainant's name, trademark, reputation and goodwill when the disputed domain name was registered.

In *The Nasdaq Stock Market, Inc., v. Hamid Reza Mohammad Pouran*, WIPO Case No. [D2002-0770](#), the panel held: "The Respondent knew or should have known of the existence of the Complainant, [as] the Complainant's trademark [was] widely publicized globally and constantly featured throughout the Internet, and thus the Panel decides that the disputed domain names were registered in bad faith".

The Respondent, by using the disputed domain name, is intentionally misleading the consumers and confusing them trying to attract them to other websites making them believe that the websites behind those links are associated with or recommended by the Complainant.

The disputed domain name is only used to divert Internet users to other sites offering services that compete with those of the Complainant.

On the basis of the above, the Panel finds that the Respondent registered the disputed domain name to attract Internet users, for commercial gain, by creating a likelihood of confusion with the Complainant's

trademarks and domain names (Policy, paragraph 4(b)(iii)).

Accordingly, pursuant to paragraph 4(b) of the Policy, this Panel finds that disputed domain name was registered and has been used in bad faith by the Respondent.

On this basis the Panel finds that the Complainant has satisfied the third and last point of the Policy, paragraph 4(a)(iii).

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

*/Eva Fiammenghi/*

**Eva Fiammenghi**

Sole Panelist

Date: September 30, 2022