

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Générale des Etablissements Michelin v. Joshua Pieters, Pieters Digital

Case No. D2023-3963

### **1. The Parties**

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

The Respondent is Joshua Pieters, Pieters Digital, United Kingdom.

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

The disputed domain name <michelinguide.org> 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 September 22, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 22, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 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 October 1, 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 October 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2023. The Respondent did not submit any formal response, except from sending two informal emails on September 25 and September 28, 2023, respectively. Accordingly, the Center notified the Parties on October 30, 2023, that it would proceed with the Panel Appointment.

The Center appointed William F. Hamilton as the sole panelist in this matter on November 14, 2023. 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 well-known company that designs, manufactures, and markets tires for several vehicle industries (car, truck, aviation). The Complainant is also highly involved into travel publications (maps, guides, atlases, computerized products) and vehicle racing (Formula One and Motorcycle Grand Prix, Superbike).

The Complainant owns numerous registrations for the trademark MICHELIN (the “Mark”) in many countries around the world related to the tire production and sales, road maps, and restaurant guides. The Complainant’s many registrations include:

- International Trademark Registrations No. 1713161, dated June 13, 2022, and No.1254506, dated December 10, 2014;
- United States Patent and Trademark Office Registration No. 5775734, dated June 11, 2019;
- European Trademark Registration No.013558366 dated April 17, 2015.

The Complainant has registered and used various domain names that incorporate the Mark including the domain <michelin.com> and the sub-domain <guide.michelin.com>.

The disputed domain name was registered on January 5, 2023, and previously resolved to a site which featuring content directly taken from the official website of the Complainant and, when the Complaint was filed, resolved to a website which mimics the Complainant’s website.

#### **5. Parties’ Contentions**

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

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by entirely adopting the Mark and adding the word “guide.” The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any *bona fide* commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent obviously knew of the Mark and used the disputed domain name in bad faith to attract unsuspecting Internet users to its website for commercial and other illicit activity.

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

The Respondent did not formally reply to the Complainant’s contentions. In correspondence the Respondent proffered that the disputed domain was registered as a “fan” website and redirected the Internet users to the official website of the Complainant. The Respondent offered to sell the disputed domain name to the Complainant for GBP 5,000, an amount presumably significantly more than the registration cost of disputed domain name.

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

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

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

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

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is confusingly similar to the Mark because the disputed domain name is composed of the Mark and the suffix "guide". A domain name which wholly incorporates a complainant's registered mark is sufficient to establish confusingly similarity for the purposes of the Policy when, as here, the Mark is clearly recognizable within the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8 ("where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"). In this case, the Mark is clearly recognizable in the disputed domain name notwithstanding the addition of the suffix "guide". See e.g., *Compagnie Generale Des Etablissements Mechelin v. Vaclav Novotny*, WIPO Case No. [D2009-1022](#); *Compagnie Generale Des Etablissements Mechelin, Michelin & Cie v. Mitchell J. Newdelman*, WIPO Case No. [D2001-0512](#); *Compagnie Generale Des Etablissements Mechelin v. Jon Cropper, Jonathan Media*, WIPO Case No. [D2020-1439](#).

The Top-Level Domain of the disputed domain name, in this case ".org", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

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

The Panel finds on the evidence presented that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has conducted any bona fide business under the disputed domain name or is commonly known by the disputed domain name. The Complainant has established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name. Indeed, the Respondent claims that the disputed domain name is set up to be a "fan page". However, the Respondent's claim does not justify any rights or legitimate interests on the part of the Respondent as the Respondent overtly admits that the disputed domain name redirects to the Complainant's official website. Such use is likely causing unsuspecting Internet users into believing that the disputed domain name is associated, sponsored, or affiliated with the Complainant when it is not the case, while in order to support a respondent's rights or legitimate interests under the paragraph 4(iii) of the Policy, a fan site has to be active, genuinely noncommercial, and clearly distinct from any official complainant's site. [WIPO Overview 3.0](#), section 2.7.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. Indeed, as discussed in the next section, the Respondent claims registering the disputed domain name as an unauthorized "fan" page.

The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds on the evidence presented that the disputed domain name was registered and used in bad faith. The Respondent has clearly used the Complainant's Mark in the disputed domain name to attract Internet visitors to the Respondent's website. The Respondent has admitted as much by confessing that the Respondent registered the disputed domain name to create a "fan" website which resolves a website that is actually a clone of the Complainant's website. It is beyond doubt that the Respondent has attempted to attract Internet users to the Respondent's website by using the Mark in the disputed domain name to create a likelihood that Internet users will believe that the disputed domain name will resolve to a website offering services that are sponsored or affiliated with of the Complainant. Additionally, the Respondent's bad faith is further underscored by their attempt to sell the disputed domain name to the Complainant at a price well beyond the initial registration costs. Finally, evidence of bad faith registration and use is reinforced by the Respondent's MX configuration of an email address to use in connection with the disputed domain name.

The Complainant has met its burden under paragraph 4(a)(iii) 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 <michelinguide.org> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: November 28, 2023