

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2024-1353

1. The Parties

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

Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (“Center”) on March 29, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 2024, 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 (the Complaint identified Domains By Proxy, LLC) and the contact information in the Complaint. The Center sent an email communication to Complainant on April 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on April 4, 2024. The Panel determines that “Carolina Rodrigues, Fundacion Comercio Electronico” is the correct Respondent.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (“Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Center received apparently automated communications by email on April 5, 2024, from a third party. On April 26, 2024, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Debra J. Stanek as the sole panelist in this matter on May 3, 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

Complainant is a leading tire company that was founded in 1889. It has locations throughout the world. In addition to tires and travel-related publications, such as maps, and guides, it also offers the well-known "MICHELIN Guide," which ranks fine dining establishments. The Complaint contains a list of a number registrations for its MICHELIN mark in numerous countries worldwide, including providing registration information for International Registrations, such as Reg. No. 771031, registered in 2001 for a variety of goods (e.g., tire mounting and unmounting equipment, travel gear, writing materials, portable containers, clothing, etc.) and services (tourism and hotel reservation services) and country-specific registrations, such as a United States Registration No. 3329924, registered in 2007 for travel information services.

Complainant owns and operates a website at the <michelin.com> domain name.

The disputed domain name was created on January 9, 2024. In addition, according to information provided by Complainant, servers have been configured in a manner that would permit the disputed domain name to be used to create one or more email addresses. Before the Complaint was filed, it resolved to a page that was parked and apparently contained pay-per-click ("PPC") links to third party sites. According to the Complaint, Complainant contacted the hosting provider who disabled the parking services associated with the domain name.

At the time of this decision, an attempt to access the page resulted in redirection to a domain name displaying pop-up messages purporting to be from Microsoft security.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends:

- The disputed domain name is an imitation of Complainant's MICHELIN mark, and the changing of the order of the middle letters constitutes typosquatting.
- The disputed domain name differs from the MICHELIN mark "by only one letter" and the reversal of the three central letters is a "predictable and easily made typing error."
- The links on the webpage to which the disputed domain name directs contained "commercial links" that target "Complainant's field of activity."
- The fact that a DNS server was configured increases the risk of phishing activities.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. Policy, para. 4(a); [WIPO Overview 3.0](#), section 1.2.1.

The entirety of Complainant's mark is not reproduced within the disputed domain name.

The disputed domain name consists of the same letters that make up the MICHELIN mark.¹ The sequence of those letters differs. While there are differences in appearances and pronunciation between "michelin" and "miehclin," the Panel is persuaded that the reversal of "che" in "michelin" is insufficient to differentiate them due to the location of the reversed letters in the middle of the disputed domain name². The Panel finds that the mark is nonetheless recognizable within the disputed domain. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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 a 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 (although the burden of proof always remains on the complainant). 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Although Complainant's arguments are conclusory, the Panel agrees that there is no evidence that Respondent is using the domain name in connection with a bona fide offering of goods or services. Nor is there any evidence that Respondent is commonly known by the domain name. Respondent is not making a legitimate noncommercial or fair use of the domain name. The Respondent has 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 such as those enumerated in the Policy or otherwise.

Based on this record, the Panel finds the second element of the Policy has been established.

¹ Complainant's reference to the disputed domain name differing by "one letter" is mistaken.

² The Panel does not agree, however, that the reversal of those three central letters – in contrast to the transposition of two letters, for example – is a "predictable and easily made typing error."

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel finds that Complainant's mark predates the disputed domain name. Respondent has not provided any evidence of good faith use which, in any case, appears to be implausible, particularly given the current use of the disputed domain name.

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 <miehclin.com> be transferred to the Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: May 14, 2024