

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Generale des Etablissements Michelin v. Mark Whitman  
Case No. D2024-2400

### **1. The Parties**

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

The Respondent is Mark Whitman, United Kingdom.

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

The disputed domain name <michelinastar.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 June 12, 2024. On June 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 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 (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 13, 2024, 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 June 13, 2024.

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 June 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2024. Following the Center’s notification, the Respondent sent an email communication to the Center on August 2, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on August 8, 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**

The Complainant, established in 1889, operates in numerous countries, selling tires and publishing the Guide Michelin ranking fine dining establishments by awarding “Michelin Stars”. Since 1926, the Complainant has used the MICHELIN star rating system to grade restaurants based on their quality. Today, the guide rates over 30,000 establishments across more than 30 territories worldwide, with over 30 million MICHELIN Guides sold globally.

The Complainant has, among other, registered the following trademark containing the MICHELIN mark:

- International trademark registration number 1713161, registered on June 13, 2022, for various goods and services in classes 6, 7, 9, 12, 16, 20, 35, 37, 39, 41 and 42;
- International trademark registration number 1254506, filed on December 10, 2014, for various goods and services in classes 9, 35, 38, 39 and 41;
- United States of America Trademark Registration number 5775734, filed on July 30, 2014, and registered on June 11, 2019, for various goods and services in classes 9, 21, 23, 26, 36 and 38; and
- European Union Trademark Registration number 013558366, filed on December 12, 2014, and registered on April 17, 2015, for various goods and services in classes 9, 35, 38, 39, 41 and 42.

The Complainant's trademark holds a strong reputation and is well-known. Further, the Complainant has registered various domain names incorporating the MICHELIN mark, such as <michelin.com>, registered on December 1, 1993, and the sub-domain <guide.michelin.com>.

The disputed domain name was registered on July 11, 2023. While the website is currently inaccessible, it has previously redirected to a parking page with pay-per-click links, some of which related to the activities offered by the Complainant.

#### **5. Parties' Contentions**

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

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's well-known trademarks and domain names. The Complainant's argues that the disputed domain name identically reproduces its trademark with the addition of the generic word “star” which merely serves to accentuate the reference to one of the Complainant's core businesses, namely the MICHELIN reward system.

Further, the Complainant argues that the Respondent had no rights or legitimate interest in the disputed domain name. The Complainant is the sole legitimate owner of the trademark, corporate name, domain name made of or including MICHELIN, and the Respondent has not received any authorization to register a domain name incorporating the Complainant's trademark. Moreover, the Respondent has no rights or legitimate interests to use the name “Michelin” and is using the name to illegitimately generate a larger audience.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant contends that it is highly unlikely that the Respondent was unaware of the Complainant's well-known trademark before the registration. Further, the Complainant argues that the Respondent likely registered the disputed domain name to exploit the Complainant's goodwill and attract Internet users to generate profits through pay-per-click advertisements by creating a likelihood of confusion with the Complainant's trademark. The disputed domain name has been used to redirect Internet users to a parking page related to similar activities as the Complainant, indicating that the disputed domain name is registered to divert Internet users from the Complainant's website and thereby disrupt the Complainant's business. Further, the Complainant asserts that the Respondent's registration of a domain name comprising of the Complainant's trademark demonstrate that the Respondent intend to seek unjust benefit from the notoriety of the Complainant's mark, possibly to sell the disputed domain name at a later stage. Lastly, the mail exchanger (MX) record has been set up for the disputed domain name, suggesting that the Respondent might be using the disputed domain name for spamming or phishing attacks.

## **B. Respondent**

The Respondent contends that the disputed domain name has not been used and that the Respondent has no intention to use the disputed domain name commercially. Further, the Respondent has indicated willingness to sell the disputed domain name.

## **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 the 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.

The Panel finds that the Complainant holds several trademark registrations of MICHELIN and that the trademark is well-known and holds a strong reputation worldwide. The Complainant's trademark is also in the Complainant's domain names <michelin.com> and <guide.michelin.com>.

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

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "a star" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The Complainant's trademark remains recognizable within the disputed domain name.

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 the

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.

The Panel has not been presented with any evidence that (i) the Respondent has received a license or other permission to use the Complainant's trademark or any domain name incorporating this mark; (ii) the Respondent is commonly known by the disputed domain name; (iii) the Respondent has acquired trademark rights to use the disputed domain name; or (iv) the Respondent is making legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent indicated in its email communication that he has not used the disputed domain name, it has no intentions to use the disputed domain name and that he would be happy to sell it.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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.

Moreover, the nature of the disputed domain name, combining the Complainant's trademark with the terms "a star", carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

In light of the foregoing, the Panel finds the second element of the Policy has been established.

### **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.

In the present case, the Panel finds it unlikely that the Respondent was unaware of the Complainant's trademark as it predates the registration of the disputed domain name. Further, the disputed domain name comprises of the Complainant's well-known trademark with the inclusion of the terms "a star" which further indicates bad faith as it serves as a reference to the Complainant's MICHELIN reward system.

Although the Respondent has indicated that it has not used the disputed domain name, the Panel finds it likely that the disputed domain name was registered to achieve commercial gain. The Respondent has used the disputed domain name to redirect Internet users to a parking page with pay-per-click links related to similar activities as the Complainant.

The Respondent's assertion of willingness to sell the disputed domain name suggests that the Respondent intended to seek benefit from the notoriety of the Complainant's trademark through sale of the disputed domain name, which further supports the conclusion of bad faith in accordance with paragraph 4(b) of the Policy.

The Panel therefor concludes that the Complainant has demonstrated that the Respondent both registered and is using the disputed domain name in bad faith. Consequently, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(b) of the Policy.

The Panel finds that the Complainant has established the third element 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 < Michelinastar.com > be transferred to the Complainant.

*/Halvor Manshaus/*

**Halvor Manshaus**

Sole Panelist

Date: August 22, 2024