

ADMINISTRATIVE PANEL DECISION

Compagnie Generale Des Etablissements Michelin v. Michel Fournier Case No. D2024-2878

1. The Parties

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

The Respondent is Michel Fournier, Canada, self-represented.

2. The Domain Name and Registrar

The disputed domain name <meechelinguide.com> (the “Domain Name”) is registered with Automattic Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 17, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Knock Knock WHOIS Not There, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 July 26, 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 July 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2024. The Respondent submitted an informal response with the Center on August 9, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 4, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company, designing and distributing tires, digital services, maps and guides. The Complainant is present in 171 countries, has more than 114,000 employees and operates close to 70 manufacturing facilities. The Complainant is also known for its Michelin Guide, featuring ratings of restaurants around the world.

The Complainant owns trademark registrations of the MICHELIN trademark in numerous countries, such as International trademark registration No. 1713161, registered on June 13, 2022, and United States Registration No. 5775734, registered on June 11, 2019. The trademarks cover products and services relating to tourism, hospitality, restaurant, and gastronomy. The Complainant owns <michelin.com> since 1993.

The Domain Name was registered on September 9, 2023. The Domain Name has resolved to a website that appeared to offer gastronomy city guides. At the time of the Decision, the Domain Name resolved to a parking page with the title "Coming soon".

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 Domain Name. The Complainant documents registered trademark rights that predate the registration of the Domain Name. The Complainant argues that the trademark is "well-known" or "famous" for its tires, but also its annual Michelin Guide. The Complainant argues that the Domain Name is confusingly similar to the Complainant's trademark. It is an obvious typo squatting. The Respondent has simply replaced the letter "i" with the letters "ee". It is imperceptible, especially as the pronunciation of the word remains identical.

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant argues that the Respondent cannot establish rights in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. The Complainant submits that the Respondent has registered the Domain Name because of the connection to the Complainant, its trademark and goods and services in restaurant/gastronomy.

Finally, the Complainant submits that the Complainant is well-known throughout the world. Based on this and the composition of the Domain Name, the Respondent must have been aware of the Complainant's trademark when the Respondent registered the Domain Name. The Complainant's trademark registrations predate the registration date of the Domain Name. The Respondent has used the Domain Name with the intention to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement.

B. Respondent

The Respondent did not reply to the Complainant's contentions, but sent informal emails to the Center, informing that the Domain Name "will no longer be active, it has been removed & forwarded to a new website" and "We aren't renewing the domain, We won't be using the domain at question".

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The 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 Complainant has established rights in its trademark MICHELIN. The Domain Name incorporates the Complainant's trademark with "guide" added, and a misspelling of MICHELIN. This does not prevent a finding of confusing similarity, see [WIPO Overview 3.0](#), sections 1.8 and 1.9. For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain ("gTLD") as it is viewed as a standard registration requirement, see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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. While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element, see [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant. There is no evidence suggesting that the Respondent has any rights or legitimate interests in the Domain Name. Further, there is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering. The Respondent's use is not bona fide, but rather suggests bad faith.

The Panel finds that the Complainant has made out a prima facie case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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 Complainant's trademarks were registered long before the registration of the Domain Name, and the trademark MICHELIN is well-known. This, together with the composition of the Domain Name and use of the Complainant's Michelin Man logo on the website, suggest that the Respondent was aware of the Complainant's trademark when the Respondent registered the Domain Name and set up the gastronomic website that resolved from the Domain Name.

The Domain Name was most likely registered to attract Internet users by misleading them into believing that the website at the Domain Name is authorized by or somehow connected to the Complainant. Moreover, Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, see [WIPO Overview 3.0](#), section 3.1.4. The Respondent has not provided any evidence of good-faith use. All the above supports a finding of bad faith. In these circumstances, the current non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding, see [WIPO Overview 3.0](#), section 3.3.

The Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 the Domain Name <meechelinguide.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 9, 2024