

ADMINISTRATIVE PANEL DECISION

Compagnie Generale des Etablissements Michelin v. David ARIAL
BERTRAND

Case No. D2024-2926

1. The Parties

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

The Respondent is David Arial Bertrand, France.

2. The Domain Name and Registrar

The disputed domain name <michelinguide.store> 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 17, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 July 19, 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 22, 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 did not submit any response. Accordingly, the Center notified the Respondent's default on August 16, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on August 22, 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 is a multinational company headquartered in Clermont-Ferrand, France. Active since 1889, it acquired a solid international reputation in designing, manufacturing, and marketing tires for cars, trucks, motorcycles, and planes.

The Complainant is also known for publishing roadmaps and an annual international guide that rates restaurants, called the “Guide Michelin”. This guide, created in 1900, was originally an advertising booklet, distributed free of charge to drivers with the purchase of tires, to encourage them to hit the road and discover local attractions. In 1920, the Michelin guide began to include suggestions for restaurants and hotels in Europe. From 1926 onwards, a system for classifying fine dining establishments was developed. Awarding 1 to 3 “Michelin stars”, this system assesses the quality and flavor of the food served, as well as the mastery of culinary techniques, restaurant service and the personality of the dishes. Today, the “Guide Michelin” rates over 30,000 establishments in over 30 territories across the world and has become an authoritative international reference among gastronomic guides. Since its creation, more than 30 million Michelin guides have been distributed worldwide.

In order to reflect its activities in the tires industry as well as in the field of travel and gastronomy, the Complainant owns trade mark registrations for MICHELIN, for example the European Union trade mark No. 004836359, registered on March 13, 2008.

The Complainant also registered various domain names incorporating the trade mark MICHELIN such as <michelin.com> registered on December 1, 1993 on which the sub-domain <guide.michelin.com> is established.

Previous panels have considered the trade mark MICHELIN to be “well known” or “famous”, see for instance the following decisions: *Compagnie Generale Des Etablissements Michelin v. Vaclav Novotny*, WIPO Case No. [D2009-1022](#); *Compagnie Générale des Etablissements Michelin v. Jon Cropper, Jonathan Media*, WIPO Case No. [D2020-1439](#); *Compagnie Générale des Etablissements Michelin v. Way Su*, WIPO Case No. [D2016-2221](#); *Compagnie Générale des Etablissements Michelin v. Mark Hill*, WIPO Case No. [D2015-2274](#).

The disputed domain name <michelinguide.store> was registered on November 1, 2023. Since then, it redirects to the website of a tourism agency “www.arialtravelclub.com”, offering gastronomic tours.

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 claims that the disputed domain name is identical or confusingly similar to its trade mark MICHELIN. The disputed domain name reproduces the trade mark MICHELIN in its entirety, and MICHELIN is unquestionably the most prominent and essential feature of this domain name. The addition of the term “guide” does not diminish the confusing similarity between the disputed domain name and the Complainant’s trade marks. Indeed, the mark MICHELIN is widely used in combination with the word “guide” which refers to the activities of the Guide MICHELIN, i.e., rating and commenting on restaurants to inform

customers of the quality of service. The addition of the Generic Top-Level Domain (gTLD) “.store”, having no distinctive capacity, does not eliminate the identity or confusing similarity between the Complainant’s registered trade marks MICHELIN and the disputed domain name. In view of the foregoing, the Complainant maintains that the disputed domain name is confusingly similar to its prior rights.

The Complainant then adds that the Respondent has no rights or legitimate interests in the disputed domain name. The trade marks MICHELIN and associated domain names have been used worldwide for several decades now. The Complainant is used to promoting its products, services and related activities directly itself or – where applicable – through authorized partners and distributors. The Complainant has not authorized any other third party to identify itself to the public as MICHELIN or MICHELINguide via domain names. In view of the foregoing, the Respondent has registered the disputed domain name <michelinguide.store> without any right or legitimate interest.

Finally, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. Given the protection and constant use of the trade marks MICHELIN worldwide, it is implausible that the disputed domain name was registered by mere coincidence by the Respondent. A simple Internet check via a popular search engine reveals the existence of the Complainant’s long-term activity under the name MICHELIN. Therefore, the use of the distinctive and protected trade mark MICHELIN cannot be fortuitous. The disputed domain name points to a website representing a travel agency offering gastronomic tours (<https://arialtravelclub.com/>), which ties in with one of the Complainant’s areas of business. For almost 120 years, the MICHELIN guide has been rewarding the best in world gastronomy and has established itself as one of the most internationally recognized indicators of restaurant quality, becoming a symbol of culinary excellence. The Respondent therefore chose to use the trade mark MICHELIN in the disputed domain name to mislead Internet users and attract them to its website, by taking advantage of the Complainant’s trade mark reputation, probably to generate profits, with affiliate links for every restaurant and hotel recommended on the website. Any Internet user could be led to the Respondent’s website in the false belief that the Complainant is at the source of the website or that the Complainant has sponsored, is affiliated with or has endorsed the website. This constitutes bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the 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 the Complainant’s trade mark 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 shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Although the addition of other terms, here “guide” may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 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.

Having reviewed the available record as set out above – and in particular noting the redirection involved, 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.

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.

The Complainant has been using and promoting its trade mark MICHELIN intensively for over a century. MICHELIN is distinctive and well known, particularly in France and Europe, where the Respondent appears to be domiciled.

In the present case, the Panel notes that the Respondent has reserved a domain name reproducing the Complainant’s registered trade mark MICHELIN attached to the word “guide”. This is clearly a reference to the Complainant’s business as a publisher of gastronomic and tourist guides. The combination of these two terms cannot be purely coincidental and presupposes knowledge of the Complainant’s trade marks and activities.

The Respondent, who, according to the Panel’s limited research of public materials, appears to operate in the tourism and hospitality sector, had the disputed domain name redirected to a website created on a domain name containing his own surname, with sightseeing recommendations (excursions, activities, gastronomic visits). The Respondent wished, it appears – with full knowledge of the facts, to profit from the notoriety of the Complainant’s trade mark and intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trade mark.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under paragraph 4(b) (iv) 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 <michelinguide.store> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: September 5, 2024