

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Établissements Michelin v. Jorge Fe Masso
Case No. D2024-3692

1. The Parties

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

The Respondent is Jorge Fe Masso, Spain, represented by Victor V. Torres González, Spain.

2. The Domain Name and Registrar

The disputed domain name <guiadelmichelin.com> is registered with Arsys Internet, S.L. dba NICLINE.COM (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on September 11, 2024. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (UNKNOWN) and contact information in the Complaint.

On September 23, 2024 the Center informed the parties in Spanish and English that the language of the registration agreement for the disputed domain name is Spanish. On the following day, the Respondent submitted a Response in English. On October 4, 2024, the Complainant requested that English be the language of the proceeding.

The Center sent another email communication to the Complainant on September 23, 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 in English on October 9, 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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Respondent had previously submitted his response on September 24, 2024. The Center notified the Parties of the commencement of the Panel appointment process on November 5, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on November 11, 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 French corporation that sells tires and the Michelin Guide, a publication that rates fine dining establishments by awarding “Michelin Stars”. The Michelin Guide has been published since 1900 and has sold over 30 million copies. The Complainant owns multiple trademark registrations, including the following:

- International trademark registration number 1254506 for MICHELIN, registered on December 10, 2014, specifying goods and services in classes 9, 35, 38, 39, 41, and 42, including provision of access to databases and information relating inter alia to gastronomy by electronic transmission; and
- European trademark registration number 013558366 for MICHELIN, registered on April 17, 2015, specifying goods and services in classes 9, 35, 38, 39, 41, and 42.

The above trademark registrations are current. The Complainant also registered the domain name <michelin.com> on December 1, 1993 and has created the sub-domain <guide.michelin.com> that it uses in connection with a website in multiple languages that provides information about hotels and restaurants in the Michelin Guide.

The Respondent is an individual based in Spain.

The disputed domain name was registered on January 22, 2024. The record shows it resolves to a website available in English and in Spanish titled “Find Bars and Restaurants Near You” and subtitled “Search Bars and Restaurants in Spain by City, Zip Code, Type of Food” with the tagline: “At the Michelin Guide we make it easy for you to find Bars and Restaurants near you.” The website offers three search functions, each with an icon, variously a map, a food dome, and a star. The website invites business owners to register their establishments in “the Michelin Guide Bars and Restaurants Directory” and displays the following text: “If you have a Bar, Restaurant or similar Establishment and wish to appear in the Michelin Guide Directory of Bars and Restaurants, you can contact our commercial team through our contact telephone number or our Contact Form.”

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 MICHELIN trademark. Given the fame, the extensive reputation and notoriety throughout the world of the distinctive trademark MICHELIN, the public would expect the owner and user of the disputed domain name to be the Complainant or associated with it.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not authorized any third party to identify itself to the public as MICHELIN or “guiadelmichelin” in a domain name. MICHELIN is not a generic term but a registered distinctive and famous trademark owned by the Complainant. There appears to be no legitimate reason why the Respondent would incorporate the Complainant’s well-known mark in the disputed domain name.

The disputed domain name has been registered and is being used in bad faith. The reproduction of the Complainant’s trademarks in combination notably with the word “guide” in the disputed domain name proves the Respondent was aware of the existence of the Complainant’s trademark. No explanation may be reasonably submitted to understand why the Respondent selected the disputed domain name other than to exploit the Complainant’s goodwill in its MICHELIN marks and mislead Internet users. Moreover, the Respondent uses a reward system, like the famous Michelin stars instituted by the MICHELIN guide. the Respondent uses the disputed domain name in connection with a website that impersonates the Complainant as part of some form of dishonest and fraudulent scheme in order to make Internet users believe that they are in the presence of a website created by the Complainant or approved/awarded by MICHELIN.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent contends that he is not engaged in any professional activities related to the restaurant or hospitality industry. His surname, “Michelin”, is common and his use of “Michelin” is unrelated to the Complainant’s core business (manufacturing tires and awarding Michelin stars to high-end restaurants), and there is no intent to confuse users. The purpose of the website is limited to providing information on local restaurants and bars in Spain, further distancing it from the Complainant’s high-end, internationally recognized restaurant guide.

The Respondent has a legitimate interest in the disputed domain name because it is being used for noncommercial purposes. The website does not generate any revenue or contain advertisements, and it is not used to offer any goods or services. Its sole purpose is to share personal recommendations and information about restaurants in a local context, as a hobbyist or informational site, with no intent to profit or mislead users.

The disputed domain name was not registered in bad faith, nor was it intended to take advantage of the Complainant’s trademark. The website does not claim any affiliation with the Complainant and clearly targets a different audience: local Spanish restaurant-goers, not the international fine-dining market that the Michelin guide caters to. The use of the disputed domain name is consistent with the Respondent’s personal, noncommercial interest in sharing information about restaurants. There is no evidence that the Respondent has ever tried to sell the disputed domain name or to benefit from it financially. In addition, “Michelin” has a colloquial meaning of “love handles” in Spain, alluding to the iconic shape of the Michelin Man. This popular and playful usage of the word has no connection to tires or the Michelin guide and serves as a humorous wordplay in the context of the disputed domain name.

6. Discussion and Findings

6.1 Language of the Proceeding

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar confirmed that the Registration Agreement for the disputed domain name is in Spanish.

The Complainant requests that the language of the proceeding be English. Both Parties have filed their submissions in that same language. Accordingly, the Panel determines that the language of this administrative proceeding is English.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The above elements apply cumulatively. The Complainant bears the burden of proof of each of them.

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. See 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 the MICHELIN trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. The disputed domain name adds the Spanish words "guia del" before the mark but the mark remains clearly recognizable within the mark. Accordingly, the addition of these terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.8.

The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") extension (.com) which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name contains Spanish words meaning “guide of the” followed by “Michelin”. “The Michelin Guide” is the name of the Complainant’s restaurant guide. The Complainant provided significant evidence that demonstrates the notoriety of “the Michelin Guide” as well as of the MICHELIN trademarks. This has been recognized in several previous decisions (see e.g., *Compagnie Générale des Établissements Michelin v. Wu Shumei*, WIPO Case No. [D2018-1587](#), and *Compagnie Générale des Établissements Michelin v. WhoisGuard, Inc. / John Michaels*, WIPO Case No. [D2019-1753](#)).

The Respondent uses the disputed domain name in connection with a website that offers a bar and restaurant guide presented as “the Michelin Guide”, which is identical to the English name of the Complainant’s restaurant guide, albeit in some cases the Respondent’s website uses it in combination with the words “Bar and Restaurants Directory”. Although the categories of restaurant proposed on the Respondent’s website may be more economical than many of those in the Complainant’s guide, and although the Respondent’s website may not rate establishments with stars, the Respondent’s website offers a restaurant guide service, which is a type of service identical to that offered by the Complainant. In view of these circumstances, in the Panel’s opinion, the composition of the disputed domain name creates confusion as to whether the disputed domain name is affiliated with, or endorsed by, the Complainant. The Respondent’s website indicates that he has a “commercial team” that offers registration services to bar and restaurant owners who wish to have their establishments listed in his guide. Accordingly, the Panel does not consider the Respondent to be using the disputed domain name in connection with a bona fide offering of goods or services within the terms of paragraph 4(c)(i) of the Policy nor making a legitimate noncommercial or fair use of the disputed domain name within the terms of paragraph 4(c)(iii) of the Policy.

Further, the Registrar has confirmed that the Respondent’s name is “Jorge Fe Masso”, which does not resemble the disputed domain name. Nothing on the record indicates that the Respondent has been commonly known by the disputed domain name within the terms of paragraph 4(c)(ii) of the Policy.

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.

Turning to the Respondent’s arguments, he argues that he has a legitimate interest in using a common or descriptive word. However, the Panel notes that while “guia del” is a combination of dictionary terms, and “Michelín” is a colloquial reference in Spanish to a fold of fat around the waist, the Respondent is not using the disputed domain name in any way connected with that sense nor made any demonstrable preparations to do so. While there is a curious play on words between the Spanish colloquial term and the Complainant’s trademark, the Panel notes that a “guide of the love handle” would not make sense except for the fact that “Michelin” also corresponds to the Complainant’s mark, which is the real reason for the disputed domain name registration.

The Respondent also notes that use of one’s own surname in a domain name can be legitimate. This observation is of no apparent relevance to the present case because the Respondent’s surname is Masso, not the disputed domain name nor Michelin.

The Respondent argues that he did not intend to confuse. However, the Panel notes that the Respondent is using the disputed domain name, which wholly incorporates the MICHELIN mark, to resolve to a website offering the “Michelin Guide”, which is identical to the name of the Complainant’s restaurant guide, in connection with a service identical to that offered by the Complainant. The Respondent concedes in the Response that the Complainant’s restaurant guide is internationally recognized. In these circumstances, the Respondent’s choice to use the MICHELIN mark, especially in combination with the word “guia” (meaning guide) is clear evidence of an intention to confuse Internet users as to the source, affiliation, or endorsement of the services offered on his website or otherwise take an unfair advantage of the fact that the Complainant’s mark corresponds to a colloquial dictionary term in Spanish language (being the real reason for the selection of the disputed domain name incorporating the Complainant’s mark). The Respondent provides no legitimate explanation as to why he chose to use “Michelin” in the disputed domain name.

The Respondent asserts that he does not commercially exploit the Complainant's mark and that he has no intent to profit from the Complainant's mark. However, this assertion is belied by the fact that he invited the owners of bars, restaurants and similar establishments who wished to appear in his guide to contact his "commercial team". In the Panel's view, this indicates that he intended to charge for registration in his guide at some point, or somehow benefit from the confusing similarity with the Complainant's mark.

Accordingly, the Panel finds that the Respondent has not rebutted the Complainant's prima facie showing that the Respondent lacks rights or legitimate interests in the disputed domain name.

Based on the record, 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 fourth of these is as follows:

"(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online 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] web site or location."

In the present case, the disputed domain name was registered in 2024, years after the registration of the Complainant's MICHELIN trademark. The disputed domain name wholly incorporates that mark and combines it with a word meaning "guide", indicating an awareness of the nature of the Complainant's services. The Respondent concedes in the Response that the Complainant's restaurant guide is internationally recognized. The Respondent uses the disputed domain name in connection with a website that provides a service of a type identical to that offered by the Complainant. In light of these circumstances, the Panel finds that the Respondent registered the disputed domain name to take advantage of the reputation of the Complainant's MICHELIN trademark.

As regards use, the disputed domain name is used in connection with a website that offers a bar and restaurant guide presented as "the Michelin Guide". Given the findings in Section 6.2B above, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's MICHELIN mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a service on that website, within the terms of paragraph 4(b)(iv) of the Policy. Even if the Respondent claims that the disputed domain name is being used for noncommercial purposes, the Panel considers that the Respondent registered and is using the disputed domain name to take an unfair advantage of its significance as a trademark owned by the Complainant, and of the fact that the trademark also happens to correspond to a colloquial dictionary term in Spanish. The Panel finds that such registration and use amounts to bad faith under the paragraph 4(a)(iii) of the Policy.

The Respondent argues that there is no evidence that he has ever tried to sell the disputed domain name. However, the Panel recalls that that circumstance (which is addressed in paragraph 4(b)(i) of the Policy) is not the only circumstance that may evidence the registration and use of a domain name in bad faith.

Lastly, the Respondent asserts he uses the disputed domain name consistent with his personal, noncommercial interest in sharing information about restaurants and that there is no evidence that he intended to benefit from the disputed domain name financially. However, these assertions are not borne out by the record, which shows that the Respondent referred to his commercial team arranging registration of establishments in his bar and restaurant guide

Therefore, 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 <guiadelmichelin.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: November 22, 2024