

PANEL DECISION

Compagnie Générale des Etablissements Michelin v. David Crowley, IFC Advisors Limited T/AS IFC Finance
Case No. DEU2024-0008

1. The Parties

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

Respondent is David Crowley, IFC Advisors Limited T/AS IFC Finance, Ireland.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <michelingreenstar.eu> (“Domain Name”) is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the Domain Name is Hosting Ireland.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2024. On April 5, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the Domain Name. On April 8, 2024, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to Complainant on April 15, 2024 providing the registrant and contact information disclosed by the Registry, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 7, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified Respondent of the Complaint, and the proceedings commenced on May 8, 2024. In accordance with the ADR Rules,

Paragraph B(3), the due date for Response was May 28, 2024. Respondent submitted several emails on April 24 and 29, 2024 and May 10, 2024, indicating that it would be willing to transfer the Domain Name but it did not submit a compliant Response. Accordingly, the Center notified Respondent's default on June 6, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on June 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 ADR Rules, Paragraph B(5).

4. Factual Background

Complainant was created in 1889 and is active in the field of tire manufacturing and is also highly involved into travel publications (maps, guides, atlases, computerized products), vehicle racing (Formula One and Motorcycle Grand Prix, Superbike) and rallies. Complainant is also famous for its annual MICHELIN Guide, the travel/gastronomy guide that started being published in Europe in 1900 to encourage new drivers to take road trips to local attractions. Among other things, the guide included anonymous European restaurant reviews. MICHELIN STAR is a rating system used by Complainant since 1926 to grade restaurants on their quality. In 1926, the guide began to award "stars" for fine dining establishments, initially marking them only with a single star. Five years later (1931), a hierarchy of zero, one, two, and three stars was introduced, and in 1936, the criteria for the starred rankings were published. According to the Guide, one star signifies "a very good restaurant", two stars are "excellent cooking that is worth a detour", and three stars mean "exceptional cuisine that is worth a special journey". The listing of starred restaurants is updated once a year and includes major restaurants worldwide. The guide now rates over 30,000 establishments in over 30 territories across the world and more than 30 million MICHELIN Guides have been sold worldwide since.

Also, the MICHELIN Guide has launched a new reward system and a new star in 2021: The Green Star. The MICHELIN Green Star is an annual award which highlights restaurants at the forefront of the industry when it comes to their sustainable practices. They hold themselves accountable for both their ethical and environmental standards, and work with sustainable producers and suppliers to avoid waste and reduce or even remove plastic and other non-recyclable materials from their supply chain.

Complainant owns trademark registrations for MICHELIN including:

- International trademark registration No. 1254506, MICHELIN (word), registered on December 10, 2014;
- European Union trademark registration No. 013558366 MICHELIN (word), filed on December 12, 2014 and registered on April 17, 2015; and
- United States of America trademark registration No. 5775734 MICHELIN (word), filed on July 30, 2014 and registered on June 11, 2019.

Furthermore, Complainant owns/controls domain name registrations for MICHELIN, including <michelin.com> registered on November 30, 1993.

The Domain Name was registered on October 20, 2023 and resolves to the website of the Registrar's parking website.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all elements required under Paragraph B(11)(d)(1) of the ADR Rules for a transfer of the Domain Name.

B. Respondent

Respondent did not submit a compliant Response.

6. Discussion and Findings

Under Paragraph B(11)(d)(1) of the ADR Rules, in order for the Complaint to succeed, it is for Complainant to establish:

- (i) that the Domain Name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and;
- (ii) that the Domain Name has been registered by Respondent without rights or legitimate interests in the name; or
- (iii) that the Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Panel finds that the Domain Name is confusingly similar to the MICHELIN trademark of Complainant.

The Domain Name incorporates the trademark of Complainant in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)¹). The addition of the words “star” and “green” in the Domain Name, does not avoid a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8).

The country code Top-Level Domain (“ccTLD”) “.eu” is disregarded, as ccTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only.

The Panel finds that the Domain Name is identical to the MICHELIN mark of Complainant.

Complainant has established Paragraph B(11)(d)(1)(i) of the ADR Rules.

B. Rights or Legitimate Interests

Under Paragraph B(11)(e) of the ADR Rules, a respondent may demonstrate its rights or legitimate interests to the domain name for purposes of Paragraph B(11)(d)(1)(ii) by showing any of the following circumstances, in particular but without limitation:

- (1) prior to any notice of the dispute, the respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;
- (2) the respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;
- (3) the Respondent is making legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in respect of which a right is recognised or established by national law and/or European Union law.

¹ The Panel follows prior decisions under the UDRP and, given the similarities between the ADR Rules and UDRP, finds it appropriate to refer to UDRP jurisprudence, including reference to the [WIPO Overview 3.0](#).

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Complainant has established that it has no relation with Respondent and has never authorized Respondent to use the MICHELIN trademark in any way and that Respondent is not commonly known by the Domain Name.

Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website which currently leads to an inactive page, namely it resolves to the Registrar's parking page.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the ADR Rules or otherwise.

Respondent did not demonstrate any prior to the notice of the dispute use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolves to an inactive page.

These circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Paragraph B(11)(d)(1)(ii) of the ADR Rules.

C. Registered or Used in Bad Faith

There is no need to separately address bad faith registration or use, in view of Panel's finding that Respondent has no rights or legitimate interests in the Domain Name. However, in this case the Panel briefly considers that the Domain Name has also been registered and used in bad faith.

Because the MICHELIN mark had been widely used and registered by Complainant before the Domain Name registration and enjoyed reputation, as repeatedly recognized (*Compagnie Generale Des Etablissements Michelin v. Vaclav Novotny*, WIPO Case No. [D2009-1022](#)), the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Having reviewed the available record, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith use in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

In the present case the Panel notes a) the reputation of Complainant's trademark, b) the fact that Respondent has not submitted a formal and compliant response, c) the composition of the Domain Name, which incorporates Complainant's trademark entirely, and d) the addition in the Domain Name of the words "stars" and "green", which correspond to the "green stars" program of Complainant. Taking all the above into account, the Panel finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the ADR Rules. In addition, mail exchanger records (MX records) have been set up, so Respondent may be using the Domain Name for spamming or phishing attacks.

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established Paragraph B(11)(d)(1)(iii) of the ADR Rules.

7. Complainant's Entitlement to Transfer

Article 4(6) of the (EU) No 2019/517 (Regulation) states that "Domain names registered under the .eu TLD shall be transferable only to parties eligible for registration of .eu TLD names", which provision is reflected in paragraph B(11)(b) of the ADR Rules. Furthermore, Article 3(c) of the Regulation, provides that the registry shall "register domain names in the .eu TLD (...) requested by (iii) an undertaking that is established in the Union". The Panel notes that Complainant based in France satisfies such general eligibility criteria.

8. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the Domain Name <michelingreenstar.eu> be transferred to Complainant².

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: June 25, 2024

² The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.