

ADMINISTRATIVE PANEL DECISION

Compagnie Generale des Etablissements Michelin v. J-al's Best Chicken & Waffles, John Buxton
Case No. D2022-3595

1. The Parties

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

The Respondent is J-al's Best Chicken & Waffles, John Buxton, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <michelinchefbowls.com> is registered with FastDomain, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 28, 2022. On September 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (DOMAIN ADMIN, DOMAIN PRIVACY SERVICE FBO REGISTRANT) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 6, 2022, 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 October 10, 2022.

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 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 3, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on November 11, 2022. 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 public limited company registered in France. It provides goods and services including tyres, travel publications and gastronomic guides and ratings.

The Complainant is the owner of numerous registrations for the trademark MICHELIN, including for example:

- International trademark registration number 1245891 for the word mark MICHELIN, registered on December 10, 2014, for goods and services in various International Classes; and
- United States trademark registration number 5775734 for the word mark MICHELIN, registered on June 11, 2019, for goods and services in various International Classes, including services relating to tourism, travel and gastronomy in International Classes 9 and 42.

The disputed domain name was registered on August 4, 2022.

The disputed domain name has resolved to a website at “www.michelinchefbowls.com” which purports to offer a restaurant take-out and delivery service. The business is stated to be located in “Woobridge, Dale City, Mananas” and includes a telephone number which commences “000-000-[...]”. The Complainant provides evidence that clicking on the links included in the website takes the visitor to a Google Maps page for a restaurant in New York City having no evident connection with the Respondent.

5. Parties’ Contentions

A. Complainant

The Complainant submits that MICHELIN is recognized as a well-known or famous trademark and cites a number of prior decisions under the UDRP in support of that contention¹. The Complainant submits that it began publishing travel and gastronomy guides including the “Guide Michelin” in 1900 and is well known for awarding “Michelin Stars” to fine dining establishments which it has done since 1926. The Complainant states that the Guide Michelin now rates over 30,000 establishments in over 30 countries around the world and has sold more than 30 million copies worldwide.

The Complainant submits that the disputed domain name is confusingly similar to its MICHELIN trademark. It states that the disputed domain name incorporates the MICHELIN mark in its entirety, together with the terms “chef” and “bowl” which do not eliminate the risk of confusion. On the contrary, the Complainant contends that these terms are consistent with the Complainant’s activities in the field of restaurants.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never authorized the Respondent to register the disputed domain name or otherwise use its MICHELIN trademark. It also submits that MICHELIN is an invented term and that the Respondent can have had no legitimate reason for incorporating that mark in the disputed domain name. The Complainant further submits that the Respondent’s website is fake. It states that it is not actually possible to order food for delivery and the telephone number provided appears to be suspicious. The Complainant also points to the fact that the website links to a restaurant in New York City, which has no apparent connection with the “Dale city, Mananas” address provided on the Respondent’s website.

¹ E.g. *Compagnie Generale Des Etablissements Michelin v. Vaclav Novotny*, WIPO Case No. [D2009-1022](#)

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent was obviously aware of its well-known MICHELIN trademark when it registered the disputed domain name and did so in order to take advantage of the prestige of the trademark. The Complainant contends that Internet users will be deceived into believing that the Respondent's website is in some way approved or endorsed by the Complainant, which will attract a larger audience to it. The Complainant submits that the Respondent intends to gain commercial advantage from its website, whether by collecting user data or from click-through advertising. It contends that, in the alternative, the Respondent hopes to sell the disputed domain name to the Complainant. The Complainant also submits that mail exchanger (MX) records have been created upon the disputed domain name, which would enable the Respondent to impersonate the Complainant by way of emails.

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

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in respect of the mark MICHELIN. The disputed domain name incorporates that trademark in its entirety, together with the terms "chef" and "bowls", neither of which prevent the Complainant's trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. In the light of this and its findings in respect of bad faith below, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds that the trademark MICHELIN has the status of a famous or well-known trademark. In those circumstances, and the Respondent having offered no explanation for its choice of the disputed domain name, the Panel readily infers that the Respondent registered the disputed domain name in the knowledge of the Complainant's trademark and with the intention of taking unfair commercial advantage of the goodwill attaching to that trademark.

The Panel finds further that the Respondent is using the disputed domain name for the purpose of a website purportedly offering restaurant services and that its inclusion of the Complainant's trademark in the disputed domain name is intended to mislead Internet users into believing the website has some legitimate affiliation with the Complainant. While such a misrepresentation would indicate bad faith even if the Respondent's website were genuine, the Panel finds that the website is in fact a sham, being used as a pretext to attract Internet users on the basis of the fame of the MICHELIN trademark. The Panel finds in particular that the website does not genuinely supply food delivery services, that its address and telephone number appear to be fake and that it includes links to a restaurant in New York City having no apparent connection with the Respondent.

The Panel further infers that the Respondent intends to derive commercial advantage from its use of the disputed domain name, its specific plans in this regard being unimportant in all the circumstances of the case. The Panel finds in particular that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel concludes in the circumstances that the disputed domain name has been registered and is being used in bad faith.

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, <michelinchefbowls.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: November 25, 2022