

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Tanapon Bupphasawan Case No. D2024-4606

1. The Parties

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

The Respondent is Tanapon Bupphasawan, Thailand.

2. The Domain Name and Registrar

The disputed domain name <chefmichelin.com> is registered with GMO Internet Group, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2024. On November 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 13, 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 (Unknow) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 November 20, 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 November 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2024. The Response was filed with the Center on December 4, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on December 26, 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 corporation organized under the laws of France that operates a business with a presence in many countries selling tires, and which publishes the authoritative “Guide Michelin” (often referred to as the “Michelin Guide”) that ranks fine dining establishments by awarding “Michelin Stars”. The Complainant’s origins date from 1889 and the Guide Michelin was first published in 1900. “Michelin Stars” date from 1926.

The Complainant maintains a global portfolio of registered trademarks for the word mark MICHELIN, in at least one case dating back to 1901, covering products and services relating to tourism, hospitality, restaurant and gastronomy, and services of editing and publication of guides. For example, the Complainant is the owner of International Registered Trademark Number 1713161 for the word mark MICHELIN, registered on June 13, 2022 in Classes 6, 7, 9, 12, 16, 20, 35, 37, 39, 41, and 42, designated in respect of a variety of jurisdictions including Thailand, where the Respondent is reportedly based.

The Complainant also operates certain domain names reflecting its trademarks including <michelin.com>, registered on December 1, 1993, which is used in connection with a sub-domain <guide.michelin.com>. Numerous previous panels under the Policy have held the Complainant’s MICHELIN mark to be globally well-known or famous.

The disputed domain name was registered on September 6, 2024. The website associated with the disputed domain name is currently inactive but according to a screenshot taken by the Complainant (undated but presumably from around the time the Complaint was filed), said website had the appearance of a cookery school featuring a video course with the stated objective “Developing and upgrading food and service business personnel to promote tourism and food entrepreneurs in Thailand to Michelin standards and to jointly drive Thai food cultural tourism towards soft power”. The course listing included lectures on the Complainant’s criteria, food business standards, food business management, food production and service review, and principles of cooking.

The Respondent states that it is an alumnus of Suan Dusit University in Thailand, and that it was requested to register the disputed domain name by Associate Professor Dr. Pannee Suanpang, a faculty member at the University. The Response has been prepared by Dr. Suanpang.

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 incorporates its well-known MICHELIN trademark identically, and the inclusion of the descriptive term “chef” does nothing to detract from the immediate association with the Complainant arising from the word “Michelin”.

The Complainant notes that it is the sole legitimate owner of the trademark, corporate name, and domain name “Michelin”, adding that no third party has been authorized to identify itself to the public via the disputed domain name, and that the Respondent seeks to take a commercial advantage from the Complainant’s prior rights, having impermissibly registered the disputed domain name in the knowledge of these. The

Complainant asserts that the use of such trademark will generate a larger audience than would have been the case had the Respondent chosen a domain name that was not confusingly similar to a famous mark.

The Complainant notes that due to the protection and constant use of the MICHELIN trademark by the Complainant, there is no chance that the disputed domain name was registered by coincidence. The Complainant notes that the Respondent was inevitably aware of the Complainant's interests at the time when it registered the disputed domain name, as a simple Internet check via Google or a search of the register of trademarks would disclose this, as would the general notoriety of the mark. The Complainant adds that the website formerly associated with the disputed domain name affirms such prior awareness as it makes numerous references to the Complainant's Michelin Guide, and that the inclusion of the entirety of its mark in the disputed domain name renders it difficult to infer a legitimate use by the Respondent.

The Complainant adds that the former website associated with the disputed domain name makes Internet users believe that the training services provided are offered, certified, sponsored, or approved by the Complainant. The Complainant submits that an Internet user would be led to the website associated with the disputed domain name based on a mistaken belief that the Complainant is the source thereof, or that the Complainant is affiliated with said website, adding that this constitutes bad faith in terms of paragraph 4(b)(iv) of the Policy. The Complainant adds that said website is a deliberate attempt to impersonate the Complainant, and that the Respondent is taking advantage of the notoriety and prestige of the Complainant's marks, products and services.

B. Respondent

The Respondent does not directly assert that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. However, it expresses the wish to clarify its position and to set out the actions that it has taken to address the Complainant's concerns. It also notes its regret for any unintended consequences and asks that the Panel consider "mitigating factors" when evaluating the Complaint.

The Respondent submits (but does not provide supporting evidence) that the disputed domain name was registered in support of an academic research project titled "Innovation in Upgrading Chefs to Service Innovators to Promote Tourism and Service to Michelin Standards", conducted under the Suan Dusit University in Bangkok, Thailand. The Respondent adds that the project aim was to disseminate knowledge and educational resources, not to engage in commercial activities or profit-making ventures, and asserts that the website associated with the disputed domain name served solely as a platform for information dissemination related to the project.

The Respondent acknowledges that the use of the disputed domain name may have created confusion, asserts that this was unintentional, and apologizes for any misunderstanding or infringement this may have caused. The Respondent notes that upon receiving notification of the Complaint, it immediately took down the website and ceased all associated activities, adding that it has no intention of exploiting the Complainant's trademark or reputation, and asserting that its actions demonstrate its commitment to respecting intellectual property rights.

The Respondent states that it understands the seriousness of this matter and deeply regrets any unintended consequences resulting from its actions, adding that it is prepared to cooperate fully with the Complainant to resolve the issue, noting that it believes that the immediate removal of the website and the Respondent's asserted lack of any commercial intent mitigate the infringement.

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 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 shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, the prefix "chef" 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, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name based upon its submissions that it is the sole legitimate owner of the trademark, corporate name, and domain name MICHELIN, that it has authorized no third party to identify itself to the public via the disputed domain name, that the Respondent seeks to take advantage from the Complainant's prior rights, and that the use of the Complainant's trademark in the disputed domain name will generate a larger audience than would have been the case had the Respondent chosen a domain name that was not confusingly similar to a famous mark.

The Panel therefore turns to the Respondent's case in rebuttal. In this particular case, the Respondent does not aim directly to rebut the Complainant's case, other than to assert, without the provision of supporting evidence, that its intended purpose for the disputed domain name is noncommercial in nature.

Paragraph 4(c)(iii) of the Policy sets out that a respondent may demonstrate that it has rights or legitimate interests in the domain name concerned if the Panel determines, based upon its evaluation of all evidence presented, that the respondent is "making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry. [WIPO Overview 3.0](#), section 2.5. In this context, a panel will typically consider the nature of the disputed domain name, [WIPO Overview 3.0](#), section 2.5.1, circumstances beyond the disputed domain name itself, [WIPO Overview 3.0](#), section 2.5.2, and issues surrounding commercial activity, [WIPO Overview 3.0](#), section 2.5.3.

Beginning with the nature of the disputed domain name, the question for the Panel is whether its composition carries a risk of implied affiliation with the Complainant's mark. The composition here is the word "chef" prefixed to the Complainant's famous MICHELIN trademark. Where, as here, a domain name consists of a trademark plus an additional term, panels under the Policy have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Additional terms within the trademark owner's field of commerce or indicating services related to the brand may or may not by themselves trigger an inference of affiliation and would normally require a further examination by the panel of the broader facts and circumstances of the case – particularly including the associated website – to assess potential respondent rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.1.

The Panel will therefore review the associated website as part of this analysis, but before doing so notes its opinion on the composition of the disputed domain name taken on its own. The Panel considers that the word "chef" when placed in front of the Complainant's well-known and distinctive mark in the disputed domain name triggers an inference of affiliation with the Complainant's mark. In particular, it must be borne in mind that the Complainant's eponymous guide includes a restaurant rating system that is famous in its own right, and given that restaurants rated by the Complainant can be and often are synonymous with their respective chefs, the Panel considers that the relevant public would see the term in the Second-Level Domain of the disputed domain name as intrinsically linked to the Complainant and its commercial activities. They would not see the disputed domain name as representing an unaffiliated allegedly noncommercial academic project.

Turning to the website associated with the disputed domain name, the Panel is reliant upon the screenshots produced by the Complainant as the Respondent has taken the website down in response to notification of the Complaint. It is notable that the Respondent has not produced any alternative screenshots in support of its position that its project is exclusively noncommercial and educational in nature. The Panel is of the view that the screenshots produced by the Complainant tend to suggest some form of commercial activity is taking place. The home page contains a full size blurred or stylized image of two chefs, who appear to be engaged in the preparation of various dishes, overlaid simply with the word "Chefmichelin". There is no statement concerning the alleged academic project, nor is there any alternative form of disclaimer of affiliation with the Complainant or its mark. The prominent presence of the MICHELIN mark, albeit as part of a composite word, overlaid on an image of what appears to be a restaurant kitchen, reinforces the appearance of affiliation that is already present in the disputed domain name as far as the Panel is concerned. Beneath the large image, the homepage continues with a heading, "Video Course", under which are four smaller images, each of a restaurant kitchen. The Panel does not know if these were originally linked to video content or not. In any event, all of this material suggests to the Panel that the website operator is presenting a cookery course that is either endorsed by the Complainant, or involves the Complainant's certification, and therefore that the potential for confusion or association is substantial.

The Panel has also been provided with a screenshot of a page on the said website that is linked from the homepage and is entitled "Course". Under a further sub-heading, also "course", said page states, "Service innovation to elevate personnel and restaurant businesses in Thailand to Michelin standards". Beneath this is the objective noted in the factual background section, followed by "chapters" of the course. While the Respondent might argue that a course or project that aims to elevate personnel and businesses "to Michelin standards" is making a referential use of the Complainant's mark, it should be borne in mind that the Respondent does not set or assess "Michelin standards" as this is exclusively a function of the Complainant. Thus, even this use of the Complainant's mark may itself be somewhat misleading.

In any event, when the “Michelin standards” phrase is placed in context as a sentence on a subpage of a website prominently featuring the Complainant’s mark both on its homepage, and within the associated (disputed) domain name, without any disclaimer or other statement of the Parties’ (non) affiliation, the Panel does not consider that the Respondent could be regarded as making a use of the Complainant’s mark that is referential or otherwise fair. The Panel concludes that both the appearance of the disputed domain name and the associated website’s homepage would leave the typical Internet user with the reasonable belief that they were operated or endorsed by the Complainant, when in fact they are not.

Turning to the issue of commercial or noncommercial use, the Panel notes that judging whether a respondent’s use of a domain name constitutes a legitimate fair use will often hinge on whether the corresponding website content prima facie supports the claimed purpose (e.g., for referential use, commentary, criticism, praise, or parody), is not misleading as to source or sponsorship, and is not a pretext for cybersquatting or commercial gain. [WIPO Overview 3.0](#), section 2.5.3. Here, the Panel has already found that the website associated with the disputed domain name is misleading as to source or sponsorship. The Panel notes the Respondent’s unsupported assertion that the disputed domain name and associated website are intended to form part of a noncommercial academic project. However, based upon the present record, there is nothing on the website associated with the disputed domain name that would indicate this to an Internet user. Notably, the University’s alleged involvement is not clearly stated anywhere on the homepage or the “course” page, while, by contrast, the Complainant’s mark is prominently displayed as part of the word “Chefmichelin”. The only suggestion that something academic might be taking place on the screenshots with which the Panel has been provided is the presence on the homepage of a link to “Research data”. This is at best incidental and inconclusive given the overall context. The Respondent chose not to provide any evidence as to what it intended to place behind this link or any other evidence of its alleged intended use of the disputed domain name.

In any event, even if the existence of the alleged academic project had been made clear in the website content, the Panel is of the view that the use of the Complainant’s well-known mark in the disputed domain name would likely still have made a false representation as to sponsorship, in that it suggests that the Complainant is in some way taking part in, certifying, or endorsing the project when it is not. This also indicates to the Panel that the use of the disputed domain name is neither legitimate nor fair.

Taking all of these considerations together, the Panel considers that the Respondent has not demonstrated that it is making a legitimate noncommercial or fair use of the disputed domain name, nor has it otherwise rebutted the Complainant’s prima facie showing.

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. Other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Respondent does not directly assert that it registered the disputed domain name in good faith but rather seeks to explain its motivations for doing so, while apologizing for any interference with the Complainant’s rights. In light of the present record, there is no doubt in the Panel’s mind that the disputed domain name was registered and used in the Respondent’s full knowledge of the Complainant’s rights in its well-known MICHELIN mark. This is something that is not denied by the Respondent. Instead, the Respondent insists that its intention was to build a noncommercial website for its academic project with a view to providing educational materials to disseminate knowledge and information.

The Panel considers that however reasonable and in good faith the Respondent's motivations and ambitions for its alleged educational project might be, it is unreasonable and unfair for the Respondent to have sought to cloak itself in the Complainant's well-known MICHELIN mark, as it did by way of both the disputed domain name and the associated website. This unfairness is something of which the Respondent was or ought to have been aware when it registered the disputed domain name, particularly as it knew that the Complainant was not involved in its project and that it had obtained no authorization from the Complainant for the use of the MICHELIN mark. The Panel considers that the Respondent's adoption of said mark for its project, expressed as "Chefmichelin", both in the disputed domain name and on the homepage of the associated website, amounts to an impersonation of the Complainant which takes unfair advantage of the Complainant's substantial reputation and goodwill in the MICHELIN mark, and as a minimum makes a false representation of sponsorship or endorsement. The registration and use of the disputed domain name in these circumstances could not be regarded as registration and use in good faith.

Furthermore, it cannot have escaped the Respondent's notice that the use of a domain name incorporating the Complainant's well-known mark would be highly likely to generate a larger audience for its educational resources than would have been the case if the Respondent had chosen a domain name that was not confusingly similar to such mark. Ultimately the Respondent must have been aware that it would benefit unfairly in some shape or form from its adoption of said mark, whether reputationally, from increased traffic or notoriety, or otherwise, even if such benefit would not necessarily accrue in strict commercial or hard financial terms. The Panel cannot see the registration and use of the disputed domain name in these circumstances as amounting to a good faith activity.

The Panel nevertheless acknowledges the Respondent's swift actions in taking down the website associated with the disputed domain name following the notification of the Complaint, its readiness to acknowledge the Complainant's intellectual property rights, and its apology for any confusion, albeit that such actions, while perhaps somewhat exculpatory, would not retroactively cure the Respondent's bad faith registration and use of the disputed domain name – as that is understood under the terms of the Policy – as discussed above.

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 <chefmichelin.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: January 9, 2025