

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Registration Private,
Domains By Proxy, LLC / Alex Gutierrez, POP CREATIVE
Case No. D2022-2825

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States”) / Alex Gutierrez, POP CREATIVE, United States.

2. The Domain Name and Registrar

The disputed domain name <miamimichelinrestaurants.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 1, 2022. On August 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 18, 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 September 2, 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 September 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2022.

The Center appointed Daniel Peña as the sole panelist in this matter on October 17, 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 corporation organized under the laws of France that operates a business with a presence in many countries selling tires, and the authoritative Guide Michelin that ranks fine dining establishments by awarding “Michelin Stars”.

The Complainant owns trademark registrations for MICHELIN in many countries around the world related to the tires production and sale, as well as road maps and various guide publications in the field of restaurants.

The Complainant is the holder of the following trademarks:

- United States Registration No. 5775734, MICHELIN, registered on June 11, 2019;
- International Registration No. 1245891, MICHELIN, registered on December 10, 2014;
- European Union Trade Mark No.013558366, MICHELIN, registered on April 17, 2005.

These trademarks cover goods and services relating to tourism, hospitality, restaurant and gastronomy, and in particular “multimedia publications in electronic form available online from databases in the field of travel, tourism and gastronomy or for services of editing and publication of guides”.

The disputed domain name was registered on November 05, 2021 and resolves to a pay-per-click (“PPC”) website containing links related to the Complainant’s activities.

5. Parties’ Contentions

A. Complainant

The Complainant, which was created in 1889, enjoys a strong reputation in the field of tire manufacturing for cars, trucks, motorcycles, and planes.

The Complainant has used and promoted its trademark MICHELIN for more than a century.

The Complainant owns worldwide numerous trademark registrations for MICHELIN, including in the United States where the Respondent has a place of residence.

The Complainant is famous for its annual Michelin Guide. Michelin began publishing the travel/gastronomy guide 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 that focused on the quality and flavor of food served, as well as mastery of culinary technique and personality of the dishes. MICHELIN STAR is a rating system used by the Complainant since 1926 to grade restaurants on their quality.

The MICHELIN Guides became best-sellers without equals: 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.

The Complainant has therefore established its reputation through the famous “Guide Michelin” that selects restaurants and hotels around the world.

The disputed domain name reproduces identically the Complainant’s MICHELIN trademark and the addition of the generic Top-Level Domain (gTLD) “.com” does not eliminate the identity or confusing similarity between the Complainant’s registered MICHELIN trademark and the disputed domain names, having no distinguishing capacity.

The disputed domain name wholly incorporates the MICHELIN mark and has the geographical term “miami” in front of it, as well as the term “restaurants” placed in final position. On the contrary, they reinforce the association with the Complainant considering that they are purely descriptive of the place and the activities carried out by the Complainant in the restaurant sector.

The Complainant has not authorized any third-party to identify itself to the public with its well-known mark in the disputed domain name.

The Respondent has failed to create a *bona fide* offering of goods or services.

The Complainant points out that by using the disputed domain name in connection with a monetized parking page, the Respondent’s actions are clearly commercial and does not create any rights or legitimate interests of the Respondent in the domain name.

The Respondent was aware of the existence of the Complainant’s prior rights when the disputed domain name was registered. The Respondent makes commercial use of the disputed domain name, which incorporates the Complainant’s trademark, by directing the disputed domain name to a parking page of commercial links relating to the Complainant’s business in the restaurant/gastronomy sector.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the MICHELIN trademarks on the basis of its multiple trademark registrations in several countries. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name is normally sufficient to establish that the domain name is confusingly similar to a trademark (see section 1.7 of [WIPO Overview 3.0](#)).

The Respondent’s incorporation of the Complainant’s mark in the disputed domain name is sufficient to establish that the disputed domain name is confusingly similar to the Complainant’s marks. The addition of the term “miami” as a prefix, as well as the term “restaurants” as a suffix, to the Complainant’s trademark MICHELIN do not prevent a finding of confusing similarity with the Complainant’s marks. Furthermore, the

addition of the gTLD “.com” does not prevent a finding of confusing similarity either.

The Panel is satisfied that the disputed domain name is identical or confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a *prima facie* case which, if not rebutted by sufficient evidence from the Respondent, will lead to this ground being set forth.

Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain name.

The Panel will now examine the Complainant's arguments regarding the absence of rights or legitimate interests of the Respondent in connection with the disputed domain name. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner. The Complainant also contends that the Respondent is not known under the disputed domain name.

Furthermore, the disputed domain name directs to a website that displayed various PPC commercial links related to the Complainant's activities at the time of the filing of the Complaint.

The Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1).

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain names, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its trademark. On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the MICHELIN mark at the time the disputed domain name was registered.

Bad faith can be presumed based on the widely evidenced recognition of the Complainant's marks and moreover can be imputed from the use made of the disputed domain name, such that the Respondent was aware or should have been aware of the Complainant's well-known marks and rights thereto.

In the Panel's view, the Complainant's mark is famous and registration by the unrelated Respondent creates a presumption of bad faith in this case. On this subject, section 3.1.4 of the [WIPO Overview 3.0](#) says: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar [...] to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

The disputed domain name resolves to a website that displays various PPC commercial links related to the Complainant's activities at the time of the filing of the Complaint. The Panel finds that the Respondent has attempted to mislead the Internet users for clicks and to gain commercial revenue by creating a likelihood of confusion with the Complainant's well-known trademark.

The Panel concludes that the disputed domain name was registered and is being used in bad faith and that consequently, the Complainant has satisfied the requirement under paragraph 4(a)(iii) 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 <miamimichelinrestaurants.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: October 31, 2022