

ADMINISTRATIVE PANEL DECISION

Decathlon v. Stephanie Rebibo, IDF Formation
Case No. D2022-1194

1. The Parties

The Complainant is Decathlon, France, represented by AARPI Scan Avocats, France.

The Respondent is Stephanie Rebibo, IDF formation, France.

2. The Domain Names and Registrar

The disputed domain names <e-décathlon.com> [xn--e-dcathlon-d7a.com] and <edécathlon.com> [xn--edcathlon-c4a.com] are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2022. On April 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 7, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on April 7, 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 April 11, 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 April 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2022.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on May 6, 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

Complainant is Decathlon, a major French manufacturer specialized in the conception and retailing of sporting and leisure goods. Established in 1976, the concept is to equip under one roof and at the best price all athletes, from beginners to enthusiast. The name used is “Decathlon”.

Complainant owns trademark rights in the DECATHLON sign, notably through the following trademark registrations (“Registered Trademarks”):

- French trademark DECATHLON No. 1366349, dated April 22, 1986, and duly renewed, registered for goods and services in classes 3, 4, 5, 8, 9, 12, 13, 14, 16, 18, 20, 21, 22, 24, 25, 28, 32, 33, 35, 37, 39, 40, 42, 43, 44, and 45;
- European Union trademark DECATHLON No. 000262931, registered on April 28, 2004, and duly renewed, registered for goods and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42;
- International trademark DECATHLON No. 613216, dated December 20, 1993, and duly renewed, registered for goods and services in classes 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, and 42.

In addition, Complainant provides proof of ownership of the domain names:

- <decathlon.fr> registered on June 29, 1995;
- <decathlon.com> registered on May 30, 1995;
- <decathlon.net> registered on June 22, 1998.

The disputed domain names were registered on August 19, 2021, and resolve to websites with pay-per-click links.

5. Parties' Contentions

A. Complainant

Complainant argues that the disputed domain names are confusingly similar to its Registered Trademarks.

Complainant asserts that the disputed domain names use characters not recognized by the ASCII standard and must, after conversion, be read <edécathlon.com> and <edécathlon.com>. Thus, Complainant claims that the domain names are similar to its Registered Trademarks as they almost identically reproduce the wording “decathlon” with elements that will both remain unnoticed by Internet users: the addition of the letter “e” at the beginning of the sign and the replacement of the letter “e” with the letter “é” in the word “decathlon”. In addition, Complainant claims that this adjunction shall be perceived as a generic adjunction to its Registered Trademarks, which will remain unnoticed by Internet users, the trademark DECATHLON remaining instantly recognizable.

Complainant further claims that Respondent has no rights or legitimate interests in respect to the disputed domain names.

Complainant underlines that Respondent is not currently and has never been known under the name “Decathlon”. The domain names at issue are not used to promote a *bona fide* offering of goods or services, nor to support a noncommercial legitimate use. Complainant states that it has never given any authorization or permission whatsoever to Respondent to register or to use the disputed domain names. Thus, Respondent is intentionally creating confusion in order to divert consumers from the Complainant's websites to its own website.

Finally, Complainant claims that Respondent registered and is using the domain names in bad faith. Relying on the well-known character of its Registered Trademarks, Complainant argues that Respondent could not have ignored Complainant's trademarks at the time of registration of the disputed domain names. As a result, Complainant concludes that the disputed domain names have been registered with actual knowledge of its Registered Trademarks, very likely for the purpose of creating confusion with its Registered Trademarks to divert or mislead third parties for Respondent's illegitimate profit.

Complainant also argues that the disputed domain names resolve to parking pages displaying links in relation with its field of business. Such use cannot be considered as a use in good faith of the domain names since it illustrates Respondent's will to intentionally attract Internet users to its own websites for commercial gain. Further, Complainant asserts that such use demonstrates that Respondent is trying to capitalize on the reputation and goodwill of Complainant's Registered Trademarks.

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Pursuant to paragraph 4(a) of the Policy, Complainant must prove each of the following three elements to obtain an order that the disputed domain names should be cancelled or transferred:

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

The *onus* of proving these elements is on Complainant.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy, Complainant must prove that the disputed domain names are confusingly similar to the registered trademarks in which Complainant has rights.

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for the purposes of standing to file this Complaint (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1). In this regard, Complainant has submitted evidence proving its rights in the Registered Trademarks. The Panel finds that Complainant's rights in the said trademarks have thus been established pursuant to the first element of the Policy.

The ".com" generic Top-Level Domain ("gTLD") is not to be taken into consideration when examining the identity or similarity between Complainant's Registered Trademarks and the disputed domain names, as it is viewed as a standard registration requirement (see section 1.11 of the [WIPO Overview 3.0](#)). Indeed, the mere adjunction of a gTLD such as ".com" is irrelevant under the first element confusing similarity test, as it is well established that, in principle, the gTLD is disregarded when determining identity or confusing similarity. (*Tetra Laval Holdings & Finance S.A. v. David Barr*, WIPO Case No. [D2017-0742](#); *Berlitz Investment Corporation v. Whois Privacy Service Pty Ltd, Domain Hostmaster / Lisa Katz, Domain Protection*

LLC, WIPO Case No. [D2016-2112](#))

The disputed domain names <xn--e-dcathlon-d7a.com> and <xn--edcathlon-c4a.com> use characters not recognized by the ASCII standard and must, after conversion, be read as <edécathlon.com> and <edécathlon.com>. The disputed domain names are similar to Complainant's Registered Trademarks as they almost identically reproduce the wording "decathlon" with additional elements that will most likely to be remain unnoticed by Internet users. Indeed, previous panels have considered that Punycode translation or ASCII version is equivalent to Internationalized Domain Name (*Société Air France v. Domain Administrator, China Capital*, WIPO Case No. [D2018-1220](#); *Instagram, LLC. v. Whois Guard Protected, WhoisGuard, Inc. / Alex Viznigaev*, WIPO Case No. [D2019-2741](#); *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Edmunds Gaidis*, WIPO Case No. [D2021-0401](#)).

The relevant parts of the disputed domain names comprise the word "decathlon" in its entirety. The adjunction of the letter "e" makes no difference. Indeed, previous panels have already stated that in cases where a domain name consists of a common, obvious, or intentional misspelling of a trademark, the domain name will normally be considered confusingly similar to the relevant mark for purposes of UDRP standing (*Association des Centres Distributeurs E. Leclerc – A.C.D. Lec v. 夏龙 (xia long)*, WIPO Case No. [D2020-2847](#); *Crédit Industriel et Commercial S.A. v. Super Privacy Service LTD c/o Dynadot / S Jon Grant*, WIPO Case No. [D2020-1099](#)). In this regard, [WIPO Overview 3.0](#), section 1.9 stipulates that "a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

For all of the above-mentioned reasons, the disputed domain names are confusingly similar to the Registered Trademarks in which Complainant has rights, and therefore the condition of paragraph 4(a)(i) of the Policy is fulfilled.

B. Rights or Legitimate Interests

Under Policy paragraph 4(a)(ii), Complainant must first make out a *prima facie* case showing that Respondent lacks rights and legitimate interests in respect of the disputed domain name and then the burden of production, in effect, shifts to Respondent to come forward with evidence of its rights or legitimate interests. If Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (See [WIPO Overview 3.0](#), section 2.1; *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Association des Centres Distributeurs E. Leclerc - A.C.D. Lec v. Domain Administrator, See PrivacyGuardian.org / Ghuilo Dhulio*, WIPO Case No. [D2020-2200](#); and *Facebook Inc. v. Laura Yun, Offshore Hosting Solutions Ltd.*, WIPO Case No. [D2019-1288](#)).

Complainant argues that Respondent was not authorized in any way to register the disputed domain names and that there is no relationship of any kind between Complainant and Respondent.

Long-standing case law has considered these circumstances to be sufficient to make a *prima facie* case that the respondent lacks rights or interests in the disputed domain name: "The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the Domain Name. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name" (*Decathlon SAS v. Wang Yongwei / Domain Admin, Information Privacy Protection Services Limited*, WIPO Case No. [D2015-0198](#)).

Moreover, it would appear that Respondent is not currently and has never been known under the name "Decathlon". The disputed domain names are not used to promote a *bona fide* offering of goods or services, nor to support a noncommercial legitimate use. Instead, the confusingly similar disputed domain names mislead Internet users by means of incorporating the Registered Trademarks in their entirety and resolve said users, expecting to find Complainant, to parking pages with pay-per-click links for the presumable commercial gain of Respondent.

Therefore, the Panel finds that Complainant has made a *prima facie* case showing Respondent's lack of rights or legitimate interest in the disputed domain names. As Respondent has failed to respond, the latter fails to rebut the *prima facie* case established by Complainant.

Considering the above circumstances, the Panel finds, on the balance of probabilities, that Respondent has no rights or legitimate interests in respect of the disputed domain names and the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

To fulfill the third requirement of the Policy, Complainant must prove that the disputed domain names were registered and are used in bad faith.

First, previous UDRP Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Considering the similarity between the disputed domain names and Complainant's prior company name and trademarks, and the high similarity between the disputed domain names, it is most likely that Respondent registered the disputed domain names having the Complainant's trademarks in mind.

Furthermore, Panel agrees that the Registered Trademarks should be considered as well known, such as in the following cases:

- *Decathlon v. WhoisGuard, Inc. / Win Millett*, WIPO Case No. [D2018-2195](#);
- *Decathlon v. Name Redacted*, WIPO Case No. [D2017-1490](#);
- *Decathlon v. Wang Yongwei / Domain Admin, Information Privacy Protection Services Limited, supra*;
- *DECATHLON v. Decat*, WIPO Case No. [D2008-1523](#).

Accordingly, the Panel notes that the established well-known character of the Registered Trademarks strengthens Complainant's claim that Respondent was aware of Complainant upon registration of the disputed domain names.

Thus, in this day and age of the Internet and advancement in information technology, as well as the worldwide reputation of the Complainant and its Registered Trademarks, the Panel excludes the possibility of Respondent's unawareness of the existence of Complainant and its trademarks at the time of registration of the disputed domain names. The Panel finds it more likely that Respondent registered the disputed domain names based on the notoriety and attractiveness of Complainant's business and Registered Trademarks to divert Internet traffic to its websites. Hence, Respondent has not demonstrated that the registration of the disputed domain names was done in good faith.

As a result, the Panel finds that the disputed domain names were registered in bad faith.

Secondly, Complainant claims that Respondent is using the disputed domain names in bad faith. Indeed, the disputed domain names resolve to parking pages displaying links related to the Complainant's field of activity. Previous panels stated that this kind of use illustrates Respondent's will to intentionally attract Internet users to Respondent's website for commercial gain (*The Procter & Gamble Company and Braun GmbH v. YongHoon Lee, SoftTech*, WIPO Case No. [D2020-2890](#); *Association des Centres Distributeurs E. Leclerc – A.C.D. Lec v. Perfect Privacy, LLC / Raymond Chijioke*, WIPO Case No. [D2020-2817](#)).

Complainant further argues that the use of pay-per-click links indicates that Respondent is trying to capitalize on the reputation and goodwill of the Complainant's Registered Trademarks. Previous panels considered that this kind of practice constitutes bad faith (*J. Crew International, Inc. v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-1966](#); *John Hancock Life Insurance Company (U.S.A.) v. 杨*

智超 (Zhichao Yang), WIPO Case No. [D2021-2407](#)).

Finally, the Respondent has failed to respond, which is an additional indication of bad faith use.

In light of the above, the Panel finds that the disputed domain names are also being used in bad faith.

As a result, the Panel finds that Complainant has satisfied 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 names <e-décathlon.com> [xn--e-dcathlon-d7a.com] and <edécathlon.com> [xn--edcathlon-c4a.com] be transferred to the Complainant.

/Nathalie Dreyfus/

Nathalie Dreyfus

Sole Panelist

Date: May 13, 2022