

ADMINISTRATIVE PANEL DECISION

Decathlon v. tang tang
Case No. D2022-1658

1. The Parties

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

The Respondent is tang tang, China.

2. The Domain Name and Registrar

The disputed domain name <decathlon.com> (<xn--decathlo-689c.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 May 6, 2022. On May 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 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 May 13, 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 May 17, 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 May 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2022. The Respondent did not submit any response on the merits. However, the Center received an email from the Respondent on May 13, 2022 containing foul language. On June 15, 2022, the Center notified the Parties that it would proceed to the panel appointment process.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on June 29, 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 Decathlon is a major French manufacturer specialized in the conception and retailing of sporting and leisure goods. The Complainant opened its first store in 1976 and its first store outside France in 1986. In June 2021, the Complainant employed 99,165 employees worldwide with annual sales of EUR 11.4 billion.

The Complainant is the owner of numerous DECATHLON trademark registrations, including:

- International Trademark DECATHLON (word) No. 613216, registered on December 20, 1993, designating *inter alia* China;
- European Union Trademark DECATHLON (word) No. 000262931, registered on April 28, 2004.

The Complainant is also the owner of numerous domain names including the DECATHLON trademark, such as <decathlon.com>, <decathlon.net>, and <decathlon.fr>.

The Respondent registered the disputed domain name on October 17, 2021. The disputed domain name is not in use.

5. Parties' Contentions

A. Complainant

The Complainant requests that the disputed domain name be transferred to the Complainant.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the DECATHLON trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Apart from an email communication dated May 13, 2022 containing foul language, the Respondent did not formally reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

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

(ii) the Respondent has no rights or legitimate interests in respect of such domain name; and

(iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

The Complainant holds several valid DECATHLON trademark registrations, which precede the registration of the disputed domain name.

The disputed domain name <decathloñ.com> (<xn--decathlo-689c.com>) is confusingly similar to the Complainant's trademarks since it merely reproduces the DECATHLON trademarks with the replacement of the final letter "n" by the character "ñ".

The disputed domain name almost incorporates the Complainant's DECATHLON trademark in its entirety. As numerous UDRP panels have held, where at least a dominant feature of the relevant trademark is recognizable in the domain name, it is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark.

The Panel finds the first element of the Policy has therefore been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or its trademarks. The Complainant has prior rights in the trademarks which precede the Respondent's registration of the disputed domain name. The Respondent is not using the disputed domain name which cannot constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use. The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and thereby shifted the burden to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to rebut the Complainant's *prima facie* case.

Therefore, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's allegations with regard to the Respondent's registration and use of the domain name in bad faith has been considered by the Panel. These allegations have not been contested by the Respondent.

As indicated above, the Complainant's rights in the DECATHLON trademark predate the registration of the disputed domain name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration of the disputed domain name, as the Complainant's DECATHLON trademark is well known globally and unique to the Complainant. Thus, the Respondent could not reasonably ignore the reputation of the products and services this trademark identifies. The Respondent in all likelihood registered the disputed domain name with the expectation of taking advantage of the reputation of the Complainant's trademark.

The disputed domain name is currently not being used by the Respondent. UDRP panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). This Panel also finds so under the circumstances of this case, particularly considering the well-known status of the Complainant's prior registered DECATHLON trademark.

The failure of the Respondent to formally answer the Complainant's Complaint also suggests, in combination with other factors, bad faith on the part of the Respondent (*Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#)).

Therefore, taking all the circumstances into account and for all the above reasons, the Panel concludes that the Respondent has registered and is using the disputed domain name 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 <decathloñ.com> (<xñ--decathlo-689c.com>) be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: July 13, 2022