

ADMINISTRATIVE PANEL DECISION

Decathlon v. Yadiel Vazquez

Case No. D2023-2986

1. The Parties

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

The Respondent is Yadiel Vazquez, Spain

2. The Domain Names and Registrars

The disputed domain name <decathlonmeta.store> is registered with eNom, Inc.

The disputed domain names <metadecathlon.net> and <metadecathlon.org> are registered with Nominalia Internet S.L.

The disputed domain names are hereinafter referred to as the “Disputed Domain Name(s), and eNom, Inc. and Nominalia Internet S.L. as the “Registrar(s)”.

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on, July 12, 2023. On July 13, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Disputed Domain Names. On July 17, 2023, the Registrar Nominalia Internet S.L. transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names <metadecathlon.net> and <metadecathlon.org>, which differed from the named Respondent (Redacted for Privacy / Data Protected) and contact information in the Complaint. On August 7, 2023, the Registrar eNom, Inc. transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name <decathlonmeta.store>, which differed from the named Respondent (Redacted for Privacy / Data Protected) and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 9, 2023, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center sent another email communication to the Parties in English and Spanish regarding the language of the proceeding. The Complainant filed an amended Complaint in English on August 11, 2023, which included a request for English to be the language of the proceeding.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Names Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Names Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Names Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Spanish of the Complaint, and the proceedings commenced on August 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2023.

The Center appointed Martin Michaus Romero as the sole panelist in this matter on September 12, 2023. 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

1) The Complainant is a leading French manufacturer specialized in the conception and retailing of sporting and leisure goods. In 1976, the Complainant’s founder opened a self-service supermarket dedicated to sport and leisure products. The concept is to “equip under one roof and at the best price all athletes, from beginners to enthusiast[s].” The company has been registered before the Trade and Companies Register of Lille (France) since November 16, 1984, under number 306138900. In 2022, the Complainant employed 105,000 employees worldwide with annual sales of EUR 11,4 billion. In 2022, it was operating 1,718 stores throughout the world.

2) The Complainant owns several trademark registrations worldwide containing the term “Decathlon”. Some of them were granted in France, the European Union, and Internationally, including International trademark registration number 613216, registered on December 20, 1993, designating among others Spain.

3) Considering the trademark DECATHLON has been used since 1976 and has been registered since at least 1986, its intensive use worldwide, international influence, and the Complainant’s efforts to promote it, French Judicial Courts and several decisions rendered under the UDRP have recognized the well-known character of the DECATHLON trademark.

4) The Complainant’s DECATHLON trademark dates back to 1976 and enjoys a great deal of exposure in the international media. In 1986 the Complainant’s subsidiary Decathlon Production was created with a mission to ensure the design and manufacture of articles marked “Decathlon”. The company opened its first store outside the French territory, in Germany. In 1998, the production became more international, with the opening of the first production office in Asia.

5) The Disputed Domain Names were registered on March 26, 2023, and resolve to the Registrar’s parking pages.

5. Parties’ Contentions

A. Complainant

The Complainant states in its Complaint that the Respondent:

1) registered the Disputed Domain Names, which are confusingly similar to the Complainant’s well-known trademark DECATHLON, without the Complainant’s knowledge or authorization.

2) registered the Disputed Domain Names, which include the DECATHLON trademark, to create confusion among Internet consumers, making them believe that the Disputed Domain Names are affiliated with the Complainant.

3) has no rights or legitimate interests in the Disputed Domain Names.

4) likely intended to confuse the Complainant's customers or potential customers, considering the complete reproduction of the DECATHLON trademark in the Disputed Domain Names.

Accordingly, the Disputed Domain Names were selected, registered, and is being used by the Respondent in bad faith and not for a *bona fide* offering of goods or services, nor any fair use, but rather to mislead Internet users, disrupt the Complainant's business and affect the reputation or notoriety of the DECATHLON trademark.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue – Language of the Proceeding

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar Nominalia Internet S.L. has confirmed that the language of the Registration Agreements for the Disputed Domain Names <metadecathlon.net> and <metadecathlon.org> is in Spanish.

The Complainant requested that the language of the proceeding be English. The Respondent did not comment on the language of the proceeding, or otherwise participate in the proceeding.

The Panel should ensure fairness in the language selection by giving full consideration to the parties' level of comfort with each language, the expenses that may be incurred, the possibility of a delay in the proceeding if translations are required and other relevant factors.

Considering the Complainant's request, the fact that the Respondent did not reply to any of the communications sent by the Center, all of which were transmitted in English and Spanish, and the fact that the language of the Registration Agreement for the Disputed Domain Name <decathlonmeta.store> is in English, the Panel does not consider it prejudicial to the Respondent if English were adopted as the language of the proceeding. Moreover, the proceeding would be unduly delayed if the Complainant were requested to translate the Complaint into Spanish.

Accordingly, the Panel determine that the language of the proceeding should be English.

6.2 Substantive Issue – Three Elements of the Policy

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “[a] Panel shall 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”.

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and (iii) that the Disputed Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has submitted evidence of its rights in the DECATHLON trademark.

The Disputed Domain Names are confusingly similar to the Complainant's DECATHLON trademark. The Disputed Domain Names reproduce the Complainant's trademark DECATHLON in its entirety, with the addition of the term "meta", and the generic Top-Level Domains ("gTLDs") ".store", ".org", and ".net". The additional term does not prevent a finding of confusing similarity between the Disputed Domain Names and the DECATHLON trademark, since the trademark DECATHLON is recognizable in the Disputed Domain Names. Likewise, the gTLDs also do not prevent a finding of confusing similarity.

The Panel finds that the Complainant satisfies paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has not received permission or authorization to use the Complainant's trademark. The Respondent did not reply to the Complainant's contentions and, therefore, has not provided any evidence to demonstrate anything to the contrary. Nothing in the available record indicates that the Respondent is an individual, business, or corporation known by the name "Decathlon" or by the Disputed Domain Names. Furthermore, the Respondent is not using the Disputed Domain Names for a *bona fide* offering of goods or services, nor for a legitimate noncommercial or fair use that might give rise to rights or legitimate interests in the Disputed Domain Names because the Disputed Domain Names simply resolve to the Registrar's parking pages.

Therefore, the Respondent has not rebutted the Complainant's *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

The Panel finds that the Complainant satisfies paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to the evidence submitted by the Complainant, it is clear to the Panel that the registration and the use of the Disputed Domain Names have been in bad faith, by illegally including the DECATHLON trademark in the Disputed Domain Names to intentionally create a likelihood of confusion with the Complainant's trademark with the aim to deceive or lead Internet users into believing that the Disputed Domain Names are associated with the Complainant.

The Respondent has demonstrated, by registering the Disputed Domain Names, which reproduce the Complainant's mark, an intent to capitalize on the goodwill of the Complainant's trademark. Although the Disputed Domain Names resolve to the Registrar's parking pages with no substantive use, it does not prevent a finding of bad faith, considering the Complainant's trademark DECATHLON is well known, the Respondent's lack of response to the Complainant's contentions, and the implausibility of any good faith use to which the Disputed Domain Names may be put.

Therefore, the Respondent has registered and used the Disputed Domain Names in bad faith.

The Panel finds that the Complainant satisfies 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 <decathlonmeta.store>, <metadecathlon.org>, and <metadecathlon.net> be transferred to the Complainant.

/Martin Michaus Romero/

Martin Michaus Romero

Sole Panelist

Date: September 26, 2023