

ADMINISTRATIVE PANEL DECISION

Decathlon v. Maya Evans, Tegan Lucas, Hollie Bruce, Lola Horton
Case No. D2023-5139

1. The Parties

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

The Respondents are Maya Evans, Tegan Lucas, Hollie Bruce, and Lola Horton, Italy.

2. The Domain Names and Registrar

The disputed domain names <decathlonargentina.com>, <decathlonaustralia.net>, <decathlonbelgique.net>, <decathlonbg.com>, <decathlonbrasil.com>, <decathlondanmark.com>, <decathloneesti.com>, <decathlongreece.com>, <decathlonhr.com>, <decathlonireland.net>, <decathlonisrael.com>, <decathlonkuwait.com>, <decathlonlatvija.com>, <decathlonlietuva.com>, <decathlonnederland.net>, <decathlonnorge.net>, <decathlonschweiz.net>, <decathlonslovenija.com>, <decathlonsuisse.com> <decathlonsuomi.com>, <decathlonuae.com>, and <decathlonuk.net> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 8, 2023. On December 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (N/A). The Center sent an email communication to the Complainant on December 18, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on December 20, 2023.

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 January 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on January 29, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on February 1, 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 French company specialized in the conception, manufacture and sale of sporting and leisure goods. Established in 1976, it operates nowadays thousands of stores in more than 50 countries. The Complainant also commercializes its products on-line through its official websites.

Among other registrations, the Complainant owns the following trademark registrations for DECATHLON:

- European Union trademark registration no. 000262931, registered on April 28, 2004, in classes 1 to 42;
- International trademark registration no. 613216, registered on December 20, 1993, 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.

The Complainant operates official websites under the domain names <decathlon.com>, registered on May 30, 1995, and <decathlon.fr>, registered on June 29, 1995.

The disputed domain names were registered on June 19, 2023, for some of them and on June 21, 2023, for the others.

The disputed domain names all resolve to websites with an identical design, which display prominently the Complainant's trademark and purportedly sell the Complainant's goods. The websites differ only in the language used, which corresponds to the language of the country mentioned (by name or country code) in each disputed domain name.

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 names.

The Complainant contends that the disputed domain names are similar to the Complainant's DECATHLON trademarks as they identically reproduce the denomination "decathlon" with the addition of a word or abbreviation related to a geographical location, which is insufficient to dispel the likelihood of confusion.

The Complainant further contends that the Respondents have no rights or legitimate interests in the disputed domain names for the following reasons: (i) the Respondents have no trademarks rights in the term "decathlon" neither has the Respondents received any license from the Complainant to use any domain name featuring its trademark; (ii) the Respondents are not commonly known by the distinctive term "decathlon", or any similar term; (iii) the Respondents have not used, nor prepared to use the disputed domain names in connection with a bona fide offering of goods or services. The Complainant submits that the disputed domain names carry a serious risk of implied affiliation with the Complainant.

Finally, the Complainant contends that the Respondents have used and registered the disputed domain names in bad faith. Given the reputation of the Complainant's trademark, it is highly likely, according to the Complainant, that the Respondents were aware of the Complainant's trademark rights at the time of registration of the disputed domain names. The Complainant asserts that the Respondents are intentionally creating confusion in order to divert consumers from the Complainant's websites for commercial gain, a behavior which amounts to use in bad faith.

B. Respondents

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 the domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

I. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes the following factors that strongly suggest common control in the present case: (i) the disputed domain names display the same building pattern: they combine the trademark DECATHLON with the name or code of a country, under the generic extensions ".com" or ".net"; (ii) they have been registered within a span of two days, namely on June 19 and 21, 2023; (iii) they are all registered with the same registrar and are hosted by either Cloudflare Inc. or Orion Network Limited; (iv) they all have the same nameservers and share the same two/three ranges of IP addresses; (v) all the named Respondents have indicated Italy as the country of residence and their email address share the same domain name; (vi) All disputed domain names resolve to websites which have the same look and feel and display the Complainant's trademarks, logotypes and pictures, written in the language of the country mentioned in the disputed domain name at issue.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

II. Material conditions

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 names. [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 names. Accordingly, the disputed domain names are 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, country names or codes) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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 names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

In the present case, the Panel observes that the disputed domain names carry a risk of implied affiliation with the Complainant, as they combine the Complainant’s trademark with the name of a geographic location, thus suggesting the disputed domain name in question corresponds to the Complainant’s official website for the country at issue. See [WIPO Overview 3.0](#), section 2.5.1.

Furthermore, while the Respondent uses the disputed domain names in connection with commercial websites purportedly offering for sale DECATHLON branded products, such use (even if averred) cannot be legitimate since its websites are designed to mimic the look and feel of the Complainant’s official websites and thus pass off as official websites. The Panel notes further that the screenshots of the landing page of the websites to which the disputed domain names resolve do not feature any disclaimer concerning the

relationship between the Respondent and the Complainant. In the Panel's view, this demonstrates an obvious attempt on the part of the Respondent to mislead Internet users seeking the Complainant's services and website. Such being the case, the Respondent cannot be considered to be making a bona fide commercial use of the disputed domain names.

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.

In the present case, the Panel notes that the Respondent used the Complainant's logo and trademark on its websites and that the trademark DECATHLON, which is distinctive, has been widely used before the registration of the disputed domain names. The Panel finds it therefore unlikely that the disputed domain names were chosen independently without reference to the Complainant's trademark. The Panel therefore accepts that the Respondent was aware of the existence of the Complainant and of its trademarks at the time of the registration of the disputed domain names. The Panel finds accordingly that the disputed domain names were registered in bad faith.

The Respondent used the disputed domain names in connection with active websites mimicking the Complainant's official websites and reproducing its trademark and logotype. By using the disputed domain names in such manner, the Respondent tried to pass off as the Complainant. The Panel finds that in acting so, the Respondent intentionally attempted to attract, for the purposes of commercial gain, Internet users looking for the Complainant's official websites, by creating a likelihood of confusion with the Complainant's mark as to the source and affiliation of these websites. Such behaviour constitutes use in bad faith under paragraph 4(b)(iv) of the Policy.

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 names <decathlonargentina.com>, <decathlonaustralia.net>, <decathlonbelgique.net>, <decathlonbg.com>, <decathlonbrasil.com>, <decathlondanmark.com>, <decathloneesti.com>, <decathlongreece.com>, <decathlonhr.com>, <decathlonireland.net>, <decathlonisrael.com>, <decathlonkuwait.com>, <decathlonlatvija.com>, <decathlonlietuva.com>, <decathlonnederland.net>, <decathlonnorge.net>, <decathlonschweiz.net>, <decathlonslovenija.com>, <decathlonsuisse.com>, <decathlonsuomi.com>, <decathlonuae.com>, and <decathlonuk.net> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: February 16, 2024