

## ADMINISTRATIVE PANEL DECISION

Decathlon v. xinkaitong wuhan, wan golo, and 朱国贤 (zhu guo xian)  
Case No. D2024-2091

### 1. The Parties

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

The Respondents are xinkaitong wuhan, Hong Kong, China; wan golo, Hong Kong, China; and 朱国贤 (zhu guo xian), China.

### 2. The Domain Names and Registrars

The disputed domain names <dec-athlon.com>, <deca-thlon.com>, <decathlon-il.com>, <decathlonone.com>, <decathlosn.com> are registered with Name.com, Inc., and the disputed domain name <vipdecathlon.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (with Name.com, Inc., collectively, the “Registrars”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2024. On May 27 and 29, 2024, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On May 28 and May 30, 2024, respectively, each of the Registrars 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) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 30, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on June 4, 2024.

On May 30, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese, and followed up with a reminder on June 4, 2024. On June 4, 2024, the Complainant sent an email referring to the language of proceedings section in the Complaint. The Respondents did not submit any comment on the Complainant’s submission.

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 Respondents in Chinese and English of the Complaint, and the proceedings commenced on June 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2024. On July 2, 2024, the Center received an email from the Respondent wan.golo. No formal response was received. Accordingly, the Center notified the Parties on July 2, 2024, that it would proceed to panel appointment.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 12, 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 company headquartered in France which manufactures and is specialized in the conception and retailing of sporting and leisure goods. The Complainant’s history goes back to 1976, when Michel Leclercq opened a self-service supermarket dedicated to sport and leisure products near Lille (France) under the name “Decathlon”. The Complainant has been registered in the Trade and Companies Register of Lille (France) since 1984. The Complainant’s business has grown significantly and by the end of 2017, the Complainant employed 87,000 employees worldwide with annual sales of EUR 11 billion. In January 2022, the Complainant was operating 1,747 stores throughout the world.

The Complainant owns an international trademark portfolio for the mark DECATHLON, including but not limited to French Trademark Registration DECATHLON No. 1366349, registered on April 22, 1986; European Union Trade Mark Registration DECATHLON No. 000262931, registered on April 28, 2004; and International Trademark Registration DECATHLON No. 613216, registered on December 20, 1993, designating several jurisdictions, including China. The Complainant also has a strong online presence and is the owner of numerous domain names incorporating the DECATHLON trademark, inter alia the domain names <decathlon.com>, <decathlon.fr>, and <decathlon.net>.

The disputed domain names were registered by the Respondents years after the registration dates of the abovementioned trademarks, namely between April 16, 2024 and April 23, 2024. According to the Complainant’s evidence, the disputed domain names resolved to similar websites reproducing the Complainant’s DECATHLON trademarks, logotypes, and pictures. However, the Panel notes that on the date of this Decision, the disputed domain names direct to inactive or error websites.

#### **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.

Notably, the Complainant contends that the disputed domain names are all confusingly similar to the Complainant’s well-known marks DECATHLON. The Complainant also argues that the disputed domain names carry a serious risk of implied affiliation with the Complainant, since they resolve to the official website of the Complainant, including trademarks, logotypes and pictures written in Hebrew. Furthermore, the Complainant states that the Respondents deliberately chose to include the Complainant’s DECATHLON trademarks in the disputed domain names in order to achieve commercial gain by misleading third parties,

and that such use cannot be considered as a legitimate noncommercial or fair use and that this use can only be fraudulent, and indicates that the Respondents have no rights or legitimate interests in respect of the six disputed domain names.

The Complainant also argues that the use in bad faith of the disputed domain names by the Respondents is evidenced by the fact that the Respondents used the disputed domain names to resolve to websites reproducing the exact same graphic charter of the Complainant's DECATHLON including trademarks, logotypes, and pictures, written in Hebrew. The Complainant also adds that, currently, the disputed domain names resolve to inactive websites and that this kind of use is qualified as passive holding in bad faith of the disputed domain names.

## **B. Respondent**

The Respondents did not reply to the Complainant's contentions, apart from Respondent wan golo's informal email communication of July 2, 2024, which only stated in English "Cancel the complaint, thanks".

## **6. Discussion and Findings**

### **6.1 Preliminary Issues**

#### **A. Consolidation of the 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 that the disputed domain names all target the Complainant's well-known trademark DECATHLON by using that trademark but adding in a dash, a single letter or a dictionary term ("one" or "-il"), thereby exposing a pattern; the disputed domain names have all been registered within a span of eight days, namely between April 16, 2024 and April 23, 2024, all disputed domain names are registered with the Registrar Name.com (with the exception of the domain name <vipdecathlon.com> which was registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn)) and are all hosted by Cloudflare; the disputed domain names were all used to resolve to the same or very similar websites, which the Complainant states resemble its official website, and all reproduced the Complainant's DECATHLON trademarks, logotypes, and pictures, with all disputed domain names except for <decathlosn.com> containing text written in Hebrew (in addition to English and French, with <decathlosn.com> only containing text in English and French); the registrant for <vipdecathlon.com> (i.e., 朱国贤 (zhu guo xian)) and the registrant for <decathlonone.com> (i.e., wan golo) share the same telephone number, while the registrant for the remaining four disputed domain names (i.e., xinkaitong wuhan) shares the same address (albeit incomplete and false) with the registrant (wan golo); and all registrants come from the same geographical region, i.e. China and Hong Kong, China.

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.

## **B. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name <vipdecathlon.com> is Chinese. The language of the Registration Agreements for the other disputed domain names is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English and the Complainant requests that the language of the proceeding be English. The Panel notes that the Complainant provided very limited supporting arguments and evidence for this request, essentially arguing that that the “Registrar’s official website is written in the English language and that all the legal documents, such as the Registration Agreement, available from this website, are also written in the English language”. Additionally, the Panel also notes that the Respondent’s email communication of July 2, 2024 was written in English.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see [WIPO Overview 3.0](#), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## **6.2 Discussion and Findings on the Merits**

### **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 <decathlon-il.com>, <decathlonone.com>, and <vipdecathlon.com>, and, in the case of the disputed domain names <decathlosn.com>, <dec-athlon.com>, and <deca-thlon.com>, the mark is clearly recognizable in these 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 or punctuation marks, here, a dash, a single letter, or a dictionary word or abbreviation (“one” or “-il”), 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 name such as those enumerated in the Policy or otherwise.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the websites to which the disputed domain names directed showed a clear intent on the part of the Respondent to misleadingly impersonate the Complainant for commercial gain by reproducing the Complainant’s DECATHLON trademarks, logotypes, and pictures. Panels have consistently held that the use of a domain name for illegal activity here, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the Panel notes that on the date of this Decision, the disputed domain names direct to inactive or blank webpages. In this regard, the Panel finds that holding these disputed domain names passively in this proceeding, without making any use of them, also does not confer any rights or legitimate interests in these disputed domain names on the Respondent (see in this regard earlier UDRP decisions such as *Bollere SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

Given the intensive use and fame of the Complainant’s prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain names, which are confusingly similar to such marks, clearly and consciously targeted the Complainant’s prior registered trademarks. The Panel also notes that these trademarks have been considered well-known by other panels applying the Policy (see for instance *Decathlon v. John English*, WIPO Case No. [D2023-2933](#)). The Panel therefore deducts from the Respondent’s efforts to consciously target the Complainant’s well-known prior trademarks that the Respondent knew of the existence of the Complainant’s trademarks at the time of registering the disputed domain names. This finding is further confirmed by the fact that the disputed domain names all resolved to active websites displaying the Complainant’s DECATHLON trademarks, logotypes, and pictures, since this proves that the Respondent was fully aware of the Complainant, its marks, and its business. In the Panel’s view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the Complainant provides evidence that the use of the disputed domain names, which were linked to active websites impersonating the Complainant and prominently reproducing the Complainant's DECATHLON trademarks, logotypes, and pictures, showed the Respondent's clear intent to create a likelihood confusion with the Complainant for commercial gain. The Panel concludes from these facts that the Respondent has intentionally attracted Internet users for commercial gain to such websites, by creating consumer confusion between the websites associated with the disputed domain names and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using these disputed domain names in bad faith.

Moreover, the Panel notes that on the date of this Decision the disputed domain names direct to inactive, error, or blank webpages. 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. Having reviewed the available record, the Panel notes the well-known nature of the Complainant's trademarks, and the Respondent's possible use of false or incomplete contact details (the Written Notice was not able to be delivered by courier service), and finds that in the circumstances of this case the passive holding of these disputed domain names does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

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, <dec-athlon.com>, <deca-thlon.com>, <decathlon-il.com>, <decathlonone.com>, <decathlosn.com> and <vipdecathlon.com>, be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: July 26, 2024