

ADMINISTRATIVE PANEL DECISION

The International Olympic Committee (IOC) v. Federatia Nationala a Crescatorilor de Porumbei
Case No. DRO2023-0001

1. The Parties

The Complainant is The International Olympic Committee (IOC), Switzerland, represented by Bird & Bird (Belgium) LLP, Belgium.

The Respondent is Federatia Nationala a Crescatorilor de Porumbei, Romania, represented by Centrul Regional pentru Promovarea și Protecția Proprietății Intelectuale Maramureș, Romania.

2. The Domain Name and Registry

The disputed domain name <olympiad.ro> is registered with ROTLD (the “Registry”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 3, 2023. On February 3, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On February 6, 2023, the Registry 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 (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 2023, providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 9, 2023.

On February 6, 2023, the Center informed the parties in Romanian and English, that the language of the registration agreement for the disputed domain name is Romanian. On February 9, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint 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 February 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2023. The Response was filed with the Center on February 28, 2023. On March 7, 2023, the Complainant requested for a suspension of the proceedings to explore settlement options. On March 9, 2023, the Center notified the Parties of the Suspension of the Proceedings. On April 6, 2023, the Complainant requested for an extension of the suspension period, which was notified by the Center on April 11, 2023. On May 19, 2023, the Complainant requested for the proceedings to be reinstated. The Center notified the reinstatement of the proceedings on May 22, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on May 30, 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.

Language of proceedings

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Romanian. Under paragraph 11 of the Rules, 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 Complainant requests that the language of proceedings be English. It notes, *inter alia*, that the content on the webpage to which the disputed domain name redirects is presented in English and specifically allows visitors to choose between a Romanian version of the website and an English version of the website, and that the Respondent appears to conduct its day-to-day activities in English. The Center has sent all its communications to the Respondent in both English and Romanian and has invited the Respondent to express its views on the language of the proceeding. The Respondent has not submitted any objections to the Complainant's request that the proceedings be held in English. Rather, the Respondent has filed a Response in English language.

The above satisfies the Panel that the Respondent would not be disadvantaged if the language of the proceeding is English, and that using the English language in this proceeding would be fair and efficient. Therefore, in exercise of its powers under paragraph 11 of the Rules, the Panel decides that the language of this administrative proceeding will be English.

4. Factual Background

According to information in the Complaint, the Complainant is a Swiss non-profit organization founded in 1894. Since 1896, it has supervised the organization of the Olympic Games. It has conducted 24 Olympic Winter Games and 32 Olympic Summer Games, most recently the Olympic Winter Games organized in 2022 in Beijing, China.

The Complainant has registered various trademarks consisting of or including OLYMPIAD, such as the European Union Trade Mark No. 001118165 (figurative), registered on April 26, 2004, or the International trademark No. 1128499 (word), registered on November 8, 2011. The trademark OLYMPIAD is one of the core identifiers of the Olympic Games. It designates the Summer Olympic Games, also known and referred to as the "Games of the Olympiad".

The disputed domain name was registered on February 4, 2020, and does not currently resolve to an active website. According to information in the Complaint, it was used to inform Internet users about a Racing Pigeons "Olympiad", as further detailed in section 5 below.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's trademarks as the disputed domain name reproduces the Complainant's OLYMPIAD trademark in its entirety.

As regards the second element, the Complainant argues that the Respondent is neither affiliated with the Complainant in any way nor has the Complainant licensed any rights or authorized the Respondent to use and register any domain name or trademark incorporating the trademark OLYMPIAD. Further, the Complainant shows that the disputed domain name redirected to the domain name <racingspigeonsolimpiade.ro>, which resolves to an active website relating to Pigeons racing and/or competition. It informs the visitors about the 37th Racing Pigeons "Olympiad" which took place in August 2022 in Oradea. A link on the website invites exhibitors at the event to reserve a stand for pigeon or product sales.

The Complainant submits that the offering of goods and services by the Respondent cannot be considered *bona fide*, because, *inter alia*, (i) the use on the website to which the disputed domain name redirected of the Olympic rings which, together with the word trademark OLYMPIAD of the Complainant, correspond to the figurative trademark OLYMPIAD of the Complainant, does not amount to legitimate interests (the logo was removed after the Complainant has sent a cease-and-desist letter to the Respondent); (ii) the use of a similar "City + Year" sequence ("Oradea 2022") to that used by the Complainant to designate each edition of the Olympic Games; (iii) the use by the Respondent of the term "OLYMPIC", which is one of the most well-known trademarks worldwide.

With regard to the third element, the Complainant submits that when registering the disputed domain name, the Respondent was already well aware of an opposition the Complainant filed in 2019 with the EUIPO against a figurative trademark application of the Respondent, the opposition being based on the earlier rights in the OLYMPIAD trademark of the Complainant. Moreover, the OLYMPIAD trademark of the Complainant is well known. The trademark of the Complainant is displayed on the website at the disputed domain name which creates a risk that the public might genuinely think that the Respondent and/or the competition organized by it are affiliated, connected or somehow associated with the Complainant (*i.e.* by insinuating a possible sponsorship, affiliation or endorsement of the Respondent's website), while this is not the case. In addition, the registration and use of the disputed domain name tarnishes the OLYMPIAD trademark and harms the Complainant's longstanding and internationally known assets and values.

B. Respondent

The Respondent submits that it is no longer using the disputed domain name since the beginning of the 2022 and that the conflict between its European Union Trade Mark application and the trademarks owned by the Complainant are not subject to these proceedings. Further, the Respondent agreed to transfer the disputed domain name to the Complainant free of charge at any moment at its disposal.

6. Discussion and Findings

In its Response, the Respondent consented to the transfer of the disputed domain name. However, the Complainant has explicitly asked for the proceedings to be reinstated and for a recorded decision. Given such request from the Complainant, the Panel will proceed with a decision on the substantive matters. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), Section 4.10.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or

service mark in which the Complainant has rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, “[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”.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has provided evidence of its rights in the OLYMPIAD trademarks by providing evidence of its trademark registrations.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the country-code Top-Level Domain (“ccTLD”) may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant’s trademarks. See section 1.11.1 of the [WIPO Overview 3.0](#).

The disputed domain name incorporates the OLYMPIAD trademark in its entirety without any addition. It is, therefore, identical to the OLYMPIAD trademark in which the Complainant has rights.

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark OLYMPIAD, and claims that the Respondent has no legitimate reason to acquire the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Rather, the disputed domain name does not resolve to an active website. According to the evidence provided in the Complaint, the disputed domain name previously redirected to the domain name <racinpigeonsolimpiade.ro>, where the Respondent advertised Pidgeon racing and offered for sale reservations to seats and/or products related to the “37th Racing Pidgeons Olympiad” under a logo that previously featured the Complainant’s trademarked logo. The use of the disputed domain name to redirect to a third party website of commercial nature, offering services within the same sporting industry as the Complainant, cannot confer rights or legitimate interests upon the Respondent. Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy, particularly given that domain name and website used in connection with the disputed domain name features the additional terms “racing pidgeons” and adds an “e” to “olimpiad”, a misspelled version of the OLYMPIAD trademark of the Complainant. As stated above, the disputed domain name no

longer resolves or redirects to an active website and the Panel notes that the previously redirected-to domain name (<racingspigeonsolimpiade.ro>) is similarly inoperable, featuring an “In Construction” message, which reinforces the Panel’s finding that the Respondent has no rights or legitimate interests related to the disputed domain name. The inactive state clearly does not represent a *bona fide* offering and the identical nature of the disputed domain name to the Complainant’s OLYMPIAD trademark carries a high risk of implied affiliation and such composition cannot constitute fair use. Lastly, given the Respondent’s offer to settle, the Panel infers that the Respondent has no continuing interests in the disputed domain name, legitimate or not.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not shown any rights or legitimate interests in the disputed domain name as described under paragraph 4(c) of the Policy.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(ii) of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

According to the unrebutted assertions of the Complainant, its OLYMPIAD trademarks were widely used in commerce well before the registration of the disputed domain name and are reputed. The disputed domain name is identical to the Complainant’s trademark and the Complainant’s logo was at some point displayed on the website at the disputed domain name. Under these circumstances, it is most likely that the Respondent was aware of the Complainant’s trademark at the registration date of the disputed domain name. The Respondent has not denied knowledge of the Complainant and its trademarks. Moreover, according to the unrebutted information in the case file, the Respondent was aware of the Complainant’s trademarks at the registration date of the disputed domain name, as the Complainant had relied on its prior trademark registration in an opposition against a trademark application by the Respondent.

By its Response, the Respondent gave its consent on the record to the transfer remedy sought by the Complainant, but in any event it has failed to supply any evidence or submissions to resist the Complaint. In the circumstances of the case, the Panel accepts the Complainant’s evidence and finds that the Respondent has taken the Complainant’s trademark and incorporated it into the disputed domain name, without the Complainant’s consent or authorization, for the likely purpose of capitalizing on the reputation of the trademarks to infringe upon the Complainant’s rights. The fact that the Respondent used to display the Complainant’s logo (which is part of the Complainant’s OLYMPIAD figurative trademark) until receiving a cease-and-desist letter from the Complainant further supports a finding of bad faith registration and use.

The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith in the circumstances of the case.

Lastly, the Panel notes that there might be a broader ongoing dispute between the parties with respect to an application for a European Trade Mark of the Respondent that includes the term “olimpiad”. Nevertheless, the findings of this Panel in the present proceeding have no bearing in other proceedings between the Parties, as the Panel’s findings are limited to the scope of the Policy and take into account only the submissions from both Parties in the current proceedings, evidence submitted with such submissions, and/or inferences therefrom.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(iii) of the Policy is satisfied.

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, <olympiad.ro>, be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: June 13, 2023