

ADMINISTRATIVE PANEL DECISION

Decathlon v. milad tahmasebi, Raptorcamp
Case No. DIR2022-0016

1. The Parties

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

The Respondent is milad tahmasebi, Raptorcamp, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <decathlone.ir> is registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2022. On August 12, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On August 13, 2022, IRNIC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .ir Domain Name Dispute Resolution Policy (the “Policy” or “irDRP”), the Rules for .ir Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .ir Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 16, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was September 5, 2022. On September 6, 2022, the Center notified the Respondent’s default.

The Center appointed Marilena Comanescu as the sole panelist in this matter on September 13, 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, founded in 1976, is a major French manufacturer specialized in the conception and retailing of sporting and leisure goods. At the end of 2017, the Complainant had 87,000 employees with annual sales of EUR 11 billion; and in January 2020, it was operating 1,657 stores around the world.

The Complainant holds numerous trademark registrations for DECATHLON, such as the following:

- the International Trademark No. 613216 registered on December 20, 1993 for DECATHLON (word), designating many jurisdictions worldwide, and covering goods and services in International 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; and
- the International Trademark No. 684080 registered on December 8, 1997 for DECATHLON (word), and covering services in International Class 41.

The Complainant holds domain names that include the DECATHLON mark such as <decathlon.com> and <decathlon.fr>.

The disputed domain name <decathlone.ir> was created on October 25, 2021, and, at the time of filing the Complaint, it was resolving to a website under construction reproducing the colors and construction codes of the Complainant's website with a shopping cart icon in the top left-hand corner.

Also, evidence provided as Annex F2 to Complaint submits evidence of MX records associated with the disputed domain name, indicating that the Respondent has set up an email account using the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is highly similar to its well-known trademark, trade name and domain names, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the default and the absence of any reply to the Complaint by the Respondent, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) respondent has no rights or legitimate interests in the disputed domain name; and

(iii) the disputed domain name has been registered or is being used in bad faith.¹

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the DECATHLON trademark.

The disputed domain name reproduces the Complainant's trademark with an additional final letter "e". However, such addition or misspelling does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP² panels have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name and a domain name which consists of a common, obvious or intentional misspelling of a trademark are confusingly similar to the relevant mark for the purpose of the first element. See sections 1.8 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the Policy that the ".ir" Top-Level Domain ("TLD"), being a technical requirement for registering Internet domain names, may typically be disregarded for the purpose of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark DECATHLON, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark DECATHLON, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name. In fact, at the time of filing the Complaint the disputed domain name resolved to website under construction reproducing the look and feel of Complainant's website.

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the

¹ The difference between the irDRP and the Uniform Domain Name Dispute Resolution Policy ("UDRP") is that under the irDRP it is sufficient to prove that either registration or subsequent use of the domain name by the registrant occurred in bad faith, whereas the UDRP requires the complainant to prove both elements.

² Because the irDRP shares similarities with the UDRP the Panel refers to previous UDRP precedent where appropriate.

Policy, paragraph 4(a)(ii).

C. Registered or Used in Bad Faith

The Complainant holds trademark rights for DECATHLON since at least 1993 and its trademark is well known worldwide. See also *Decathlon v. Shima Hojjati*, WIPO Case No. [DIR2021-0020](#) and cases cited therein.

The disputed domain name was created in October 2021, and reproduces the Complainant's trademark and corresponding domain names with a slight alteration, an additional letter "e" at the end.

From the above, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting the DECATHLON trademark.

At the time of filing the Complaint, the disputed domain name resolves to a page under construction reproducing the look and feel of the Complainant's own websites.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark in order to misleadingly divert Internet users to its website, and thus to obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. Furthermore, this activity is likely to disrupt the Complainant's commercial activity.

Furthermore, according to evidence on the record, the disputed domain name has active MX records. This entails that the Respondent can send emails through the email address "@decathlone.ir". The Respondent can therefore use (or may already have used) the disputed domain name to send fraudulent emails such as messages containing spam, phishing attempts, etc. See also *Confédération Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi*, WIPO Case No. [D2016-1980](#); or *Statoil ASA v. Registration Private, Domains By Proxy, LLC / Eldar Saetre*, WIPO Case No. [D2018-0563](#).

Moreover, previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <decathlone.ir> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: September 27, 2022