

ADMINISTRATIVE PANEL DECISION

The International Olympic Committee v. Alexander Safanov
Case No. D2022-0209

1. The Parties

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

The Respondent is Alexander Safanov, United States of America.

2. The Domain Name and Registrar

The disputed domain name, <olympgames.com> (the “Domain Name”), is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2022. On January 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 28, 2022.

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 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2022.

The Center appointed Tony Willoughby as the sole panelist in this matter on February 23, 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.

The invitation to the Complainant to file an amended Complaint stemmed from the fact that the Domain Name was registered in the name of a privacy service. In response to the Center's registrar verification request, the Registrar disclosed the name and address of the entity in whose name the Domain Name is currently registered. The amended Complaint names the underlying registrant as the Respondent.

4. Factual Background

The Complainant was founded on June 23, 1894, by Baron Pierre de Coubertin as an international, non-governmental, non-profit organisation as the umbrella organisation of the Olympic Movement. It has organised and/or supervised the organisation of all Olympic Games since that date. It is the registered proprietor of numerous trade mark registrations of marks comprising or including the name, "Olympic Games". For present purposes it is sufficient to identify two of those registrations, namely:

Swiss Trademark Registration No. P-512484 OLYMPIC GAMES (words) registered on June 30, 2003 for a wide variety of goods and services in all 45 classes, including services in class 35 relating to the promotion and sponsorship of international sporting events.

International Trademark Registration No. 1445565 BEIJING 2022 (figurative mark) registered on May 1, 2018 for a wide variety of goods and services in all 45 classes, including services in class 35 relating to the promotion of sporting events. The device covered by this registration is multi-coloured and features not only BEIJING 2022 in a stylised form, but also the Olympic rings and an impressionistic artistic device appearing to the Panel to represent a skier or skater at speed.

The Domain Name was registered on July 26, 2020 and currently resolves to a website at "www.playofftickets.us". The home page is headed "OLYMPIC GAMES" and features information relating to this year's winter Olympic Games in Beijing and future summer and winter games in Paris, Cortina, and Los Angeles along with buttons labelled "Opening Ceremony Tickets", "Olympic Games Tickets" and "Closing Ceremony Tickets". Elsewhere on the website is a window inviting subscription and a button headed "Olympic Games Tickets" and listing summer games sports. The website also features buttons inviting the purchase of tickets for American football, Basketball, and Hockey league matches.

At the date of the Complaint, the Domain Name was connected to a website similar in style to that described above, but devoted predominantly to the Beijing 2022 Olympic Games, and with what appears to be a feature enabling subscription and the purchase of tickets for Summer Olympic Games Sporting events.

On both websites liberal use was/is made of the Complainant's registered trade marks including those identified above and the buttons for tickets direct to an online ticketing facility offering tickets for a variety of events other than those under the supervision of the Complainant.

The Panel has been unable to verify whether those websites have ever enabled the purchase of tickets to the Complainant's events.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its OLYMPIC GAMES registered trade mark; that the Respondent has no rights or legitimate interests in respect of the Domain Name; and that the Domain Name has been registered and is being used in bad faith.

In essence the Complainant contends that the Respondent, who has no authority to use the Complainant's trade marks and who is not an authorised seller of tickets for the Olympic Games, has registered the Domain Name to use it to mislead visitors to the Respondent's website into believing that they are dealing with the Complainant or an authorised licensee of the Complainant. The subscription facility is likely to invite visitors to supply confidential personal information to the Respondent, information that they would not supply if they knew that the entity in question was not the Complainant. Such information could be used for the purpose of phishing.

The Complainant also asserts that the Respondent's use of a privacy service when registering the Domain Name is an indication that the Respondent intended to conceal his identity with a view to rendering it more difficult for the Complainant to protect its trade mark rights and is therefore a further indication of the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

A. General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the Complainant must prove each of the following, namely that:

- (i) the Domain Name is identical or confusingly similar to a trade mark 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 has been registered and is being used in bad faith.

B. Identical or Confusingly Similar

The Domain Name comprises "olymp" followed by "games" and the ".com" generic Top Level Domain. The meaningless term "olymp" in combination with "games" is a recognisable abbreviation of the Complainant's trademark OLYMPIC GAMES.

Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition explains the test for identity or confusing similarity under the first element of the Policy and includes the following passage:

"While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

Here, the Complainant's OLYMPIC GAMES registered trade mark is readily recognizable in the Domain Name, albeit in abbreviated form. The Panel finds that the Domain Name is confusingly similar to a trade mark in which the Complainant has rights.

C. Rights or Legitimate Interests

The Complainant asserts that it has no connection with the Respondent and that the Respondent has no permission to use the Complainant's trade marks for this or any other purpose. The Respondent's websites as described in section 4 above purport to enable visitors to purchase tickets for the Olympic Games, yet the evidence of the Complainant is that neither the Respondent nor the Respondent's websites are authorised retailers of tickets for the Complainant's events. The Complainant contends that the Respondent's unauthorised use of the Complainant's trade marks (notably those mentioned in section 4 above) along with the abbreviated form of the Complainant's OLYMPIC GAMES registered trade mark as it appears in the Domain Name is not a *bona fide* offering of goods and services and it is calculated to deceive visitors into believing that the Respondent is an authorised retailer of tickets to the Olympic Games.

The Complainant contends that none of the circumstances set out in paragraph 4(c) of the Policy, any of which if found by the Panel to be present shall demonstrate rights or legitimate interests for the purposes of this element of the Policy, is applicable. The Complainant contends that the use made of the Domain Name by the Respondent cannot give rise to any rights or legitimate interests in respect of the Domain Name in the hands of the Respondent.

The Panel accepts the Complainant's assertion that it has not authorised the Respondent's use of the Complainant's trade marks in this or any other way. It seems to the Panel inherently unlikely that it would authorise the use of its trade marks, whether complete or in abbreviated form, to an unlicensed retailer of tickets for its events. Additionally, it has to be noted that the Respondent has not sought to challenge the Complainant's evidence. However, there are circumstances where the unauthorised use of a third party's trade mark in a domain name may give rise to the acquisition by a respondent of rights or legitimate interests in respect of that domain name. The issue frequently falls to be considered where, as here, the respondent is using the domain name to connect to a website selling access to the goods or services associated with a complainant.

The issue is addressed in section 2.8.1 of [WIPO Overview 3.0](#):

"Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test" [a test derived from the decision in *Oki Data Americas, Inc. v. Asdinc.com* WIPO Case No. [D2001-0903](#)], the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

The Oki Data test does not apply where any prior agreement, express or otherwise, between the parties expressly prohibits (or allows) the registration or use of domain names incorporating the complainant's trademark."

In this case, the Panel has doubts as to whether the Respondent was in fact selling tickets through the websites connected to the Domain Name. It is possible, as the Complainant asserts, that the Respondent's purpose was to garner confidential personal information through the subscription facility

for a phishing scheme. However, even assuming that the Respondent was in fact selling Olympic Games tickets, the Domain Name now resolves to a website at “www.playofftickets.us”, which is also offering tickets for American football, Basketball, and Hockey league matches, having nothing to do with the Olympic Games.

Thus, the Domain Name fails the Oki Data test under the second requirement identified above. It also fails the test under the third requirement in that, as the Complainant asserts, it is likely through the liberal use of the Complainant’s figurative trade marks such as the BEIJING 2020 trade mark detailed in section 4 above that Internet users will believe the operator of the Respondent’s websites to be an authorised reseller of tickets to the Complainant’s events. Neither website “accurately and prominently disclose[s] the registrant’s relationship with the trade mark holder”.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

D. Registered and Used in Bad Faith

The unchallenged evidence of the Complainant leads the Panel to conclude on the balance of probabilities that the Respondent’s purpose in registering the Domain Name was to use it for the purpose for which he is using it, to attract visitors to his websites in the mistaken belief that he is an authorised licensee of the Complainant. The visitors are then induced to subscribe and in so doing will necessarily disclose confidential information, which could be misused. If the websites are genuine (albeit unauthorised) online retailers of tickets and not simply vehicles for garnering confidential information, any ticket purchases made are likely to have been made in the mistaken belief that the Respondent is an authorised reseller. In either case the Respondent will have been riding on the back of the reputation and goodwill associated with the Olympic Games and for commercial gain.

The Panel finds that the Domain Name has been registered and is being used in bad faith within the meaning of paragraph 4(b(iv) of the Policy.

For completeness, the Panel notes the Complainant’s contention that the Respondent’s use of a privacy service when registering the Domain Name is a further indication that the Respondent registered the Domain Name in bad faith, but in light of the above finding deems it unnecessary to address the issue.

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 Domain Name, <olympgames.com>, be transferred to the Complainant.

/Tony Willoughby/

Tony Willoughby

Sole Panelist

Date: March 1, 2022