

ADMINISTRATIVE PANEL DECISION

International Olympic Committee (IOC) v. Alexander Lemeshenko
Case No. D2022-2382

1. The Parties

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

Respondent is Alexander Lemeshenko, Ukraine.

2. The Domain Name and Registrar

The Domain Name <olympics.shop> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 30, 2022. On June 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 30, 2022, the Registrar 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 and contact information in the Complaint. The Center sent an email communication to Complainant on July 6, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 7 and July 22, 2022, respectively.

The Center verified that the Complaint together with the amended Complaints 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 Respondent of the Complaint, and the proceedings commenced on July 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. Respondent did not submit any response except that on July 22, 2022 Respondent sent an email to the Center. Accordingly, the Center notified the Parties on August 16, 2022 that it would proceed with the panel appointment.

The Center appointed Marina Perraki as the sole panelist in this matter on August 19, 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

Complainant is an international, non-governmental, non-profit organization, which is responsible for supervising the organization of the Olympic Games. On June 23, 1894, Baron Pierre de Coubertin founded Complainant, as the umbrella organization of the Olympic Movement. In 1896, under Complainant's direction, Athens, Greece hosted the first Olympic Games of the modern era. Since 1896, Complainant has supervised the organization of the Olympic Games. It has conducted 24 Olympic Winter Games and 29 Olympic Summer Games, most recently the 2022 Olympic Winter Games in Beijing, China. The Olympics Games bring together athletes from across the globe and is one of the world's most well-known and celebrated sporting, cultural, and entertainment events; for example, the Rio 2016 Summer Olympic Games was watched, per Complaint, by half of the world's population. Complainant also has a substantial presence on the World Wide Web through its official website and several major social media platforms.

Complainant owns further its own e-commerce website operated under the domain name <shop.olympics.com> which it registered in 1995. In October 2021, Complainant relaunched the Olympic shop by giving access to Olympic-branded merchandise from past, present and future Olympic and Paralympic Games on a single online store for the first time. Complainant also owned the domain name <shop.olympic.org>, which referred to an e-commerce website exploited between 2012 and 2019.

Complainant owns the International trademark registration OLYMPIC (word) with registration No. 1128501, registered on November 8, 2011, for goods and services in international classes 1 to 45.

The Domain Name was registered on February 8, 2022. Per Complainant, when the Domain Name was visited in the Google Chrome browser, a warning page came up warning that Phishing, Malicious Downloads, and PUPs have been detected at the respective website. If the McAfee antivirus were temporarily turn off, the Domain Name resolved to a webpage entitled "THE DOMAIN NAME Olympics.shop Is available for sale for [USD] 3,699". At the time of filing of the Complaint, the Domain Name led to a NameSilo "Parked Free" page, which contained the possibility to click on the link "Submit Offer" and make an offer to purchase the Domain Name. It currently leads to an inactive website.

5. Parties' Contentions

A. Complainant

Complainant submits that Respondent should have been prevented from registering the disputed domain name according to Article 2.1 of ICANN's Protection of IGO and INGO Identifiers in All gTLD's Policy which offers special protection to certain names associated with the Olympic Movement. Complainant submits that the Panel should be able to determine transfer of the Domain Name based on the breach of this policy and without resort to the UDRP.

In any event, Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions. On July 22, 2022 it sent an email to the Center asking "What information do you want from me?" to which the Center replied providing general information about the UDRP and also information on how to file a response.

The Panel notes that the Respondent's email signature bore both a Ukrainian and a Swiss phone number.

6. Discussion and Findings

The Panel notes that it has no jurisdiction under the above-referenced ICANN policy, but also that the term comprising the disputed domain name (namely, "olympics") is not on the relevant ICANN list of protected identifiers; the Complainant's reference to such ICANN policy therefore seems to be misplaced in the context of the present proceeding.

It is also noted that under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. Noting that the Respondent's disclosed location appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue. Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel above all notes that the Respondent has actually appeared and replied in this case (albeit not filing a substantive response), such that there can be no serious question as to whether it is aware of the case filed against it, and whether it has the ability to communicate in relation thereto.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly

The Panel will now proceed to consider the Complaint in terms of the Policy.

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the 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 respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use in the OLYMPIC trademark.

The Panel finds that the Domain Name is confusingly similar to the OLYMPIC trademark.

The Domain Name incorporates Complainant's OLYMPIC mark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the final letter "s", denoting plural, in the Domain Name does not prevent a finding of confusing similarity, as the OLYMPIC trademark remains clearly recognizable (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

The generic Top-Level Domain ("gTLD") ".shop" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to the OLYMPIC mark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

(i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or

(ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or

(iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not replied to Complainant's contentions and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

There is no evidence that Respondent has been commonly known by the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant has demonstrated, the Domain Name used to lead to a webpage with a warning that Phishing, Malicious Downloads, and PUPs have been detected in the website, where the Domain Name was being offered for sale for \$3,699 (assuming the currency is USD). At the time of filing of the Complaint, the Domain Name resolved to a parking page which offered the possibility to purchase the Domain Name by making an offer.

Furthermore, the Domain Name consists entirely of Complainants' trademark OLYMPIC together with the final letter "s" and (not to mention the striking similarity to the Complainants use of the singular term a subdomain) thus carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Complainant's mark OLYMPIC had been widely used and registered at the time of the Domain Name registration by Respondent. Therefore, and again noting the Complainant's subdomain use the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search (*Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis, Inc.*, WIPO Case No. [D2009-0462](#)).

Moreover, Respondent could have searched trademark registry databases and would have found Complainant's prior registration in respect of the OLYMPIC trademark (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was offered for sale for an amount that likely exceeds the acquisition price paid by Respondent.

The Domain Name currently leads to an inactive website. The non-use of a domain name would not prevent a finding of bad faith (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established 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 Domain Name <olympics.shop> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: September 2, 2022