

ADMINISTRATIVE PANEL DECISION

Decathlon v. Mohammadreza Ganjehei

Case No. DIR2022-0012

1. The Parties

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

The Respondent is Mohammadreza Ganjehei, Iran (Islamic Republic of).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On June 10, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On June 11, 2022, IRNIC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the corresponding 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 June 15, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was July 5, 2022. On July 6, 2022, the Center notified the Respondent’s default.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on July 12, 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, Decathlon, is a French limited company and a mayor French manufacturer specialized in the conception and retailing of sporting and leisure goods, with initial activity going back to July 27, 1976, when Michel Leclercq opened a self-service supermarket dedicated to sports and leisure products near Lille, North of France, under the name “Decathlon”.

In 1986 the Complainant opened its first store outside France, in Germany, in 1988 the first production office in Asia and in 2003 its first Chinese store in Shanghai. By the end of 2017, the Complainant claims to employ 87,000 employees, with annual sales of EUR 11 billion, with 35% of its stores in France and the other 65% in different international markets.

The Complainant owns numerous registrations for the word mark DECATHLON in several jurisdictions, including the following:

International Trademark Registration No. 613216 DECATHLON for goods and services in 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 designating Iran (Islamic Republic of), filed and registered on December 20, 1993;

International Trademark Registration No. 684080 DECATHLON for services in class 41 designating Iran (Islamic Republic of), filed and registered on December 8, 1997.

The Complainant also owns several domain names, including <decathlon.ir>, <decathlon.com> registered since May 30, 1995 and <decathlon.net> registered since June 23, 1998.

The Complainant offers its sporting and leisure goods online through its official websites notably located at “www.decathlon.fr” and “www.decathlon.com”.

The disputed domain name is registered since June 18, 2019 and resolves to a website offering similar products to those offered by the Complainant under the name Decathlon and displaying the Complainant’s logo.

5. Parties’ Contentions

A. Complainant

The trademark DECATHLON benefits from a solid reputation with the French and foreign consumers. It has been repeatedly recognized to be a well-known mark by French judicial courts and also by panels in UDRP cases, as shown in the referenced cases.

The Complainant claims that the disputed domain name is confusingly similar with the trademark DECATHLON in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

The Respondent is not currently and has never been known under the name “Decathlon” and has no relationship with the Complainant, who has never given authorization to the Respondent to register or use the disputed domain name.

The Respondent is intentionally creating confusion and is not using the disputed domain name to promote a *bona fide* offering of goods or services, nor to serve a noncommercial legitimate purpose.

By using the disputed domain name to sell confusingly similar, if not counterfeit, products, the Respondent is not only causing harm to the Complainant to an economic point of view but may also create high risks for the consumers in terms of safety and security.

The Complainant believes that the disputed domain name has been registered for the sole reason of commercial gain by means of misleadingly diverting consumers seeking the Complainant to the Respondent's website.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

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

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's DECATHLON trademark.

The disputed domain name incorporates the Complainant's trademark DECATHLON in its entirety with the addition of "iran", which is not sufficient to prevent a finding of confusing similarity.

The country code Top-Level Domain ("ccTLD") ".ir" is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark DECATHLON in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the [disputed] domain name in connection

with a *bona fide* offering of goods or services; or

- the respondent (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proved that they are the owners of the DECATHLON mark. There is no indication that they have licensed or otherwise permitted the Respondent to use their trademark, nor have they permitted the Respondent to apply for or use any domain name incorporating their mark.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

As established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry”. In this case, the Panel considers that the disputed domain name carries a risk of implied affiliation with the Complainant and the Complainant’s DECATHLON mark.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered or Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant’s trademark DECATHLON mentioned in paragraph 4 above (Factual Background) when it registered the disputed domain name on June 18, 2019.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant’s DECATHLON trademark in the disputed domain name creates a presumption of bad faith.

The Complainant has submitted evidence to support that the trademark DECATHLON mentioned in paragraph 4 above is widely known and was registered and used many years before the Respondent registered the disputed domain name. The Respondent when registering the disputed domain name has targeted the Complainant’s trademark DECATHLON and added the country name “Iran” to confuse Internet users and lead them to believe that the website to which the disputed domain name resolves is the official website of the Complainant in Iran, and thereby capitalize on the fame of the Complainant’s name and trademark for its own monetary benefit.

The clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has registered and uses the disputed domain intentionally to attempt to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's well-known and widely used DECATHLON trademark as to the source, sponsorship, affiliation, or endorsement. This amounts to bad faith under paragraph 4(b)(iv) 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 name <irandecathlon.ir> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: July 21, 2022