

## ADMINISTRATIVE PANEL DECISION

Decathlon v. Sonu kumar, Mayank Agarwal, Ankit Raj, Amit Singh  
Case No. D2024-2444

### 1. The Parties

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

The Respondents are Sonu kumar, Mayank Agarwal, Ankit Raj, and Amit Singh, India.

### 2. The Domain Name and Registrar

The disputed domain names <de-cathlonfranchisemodel.live>, <decath-lon.live>, <decath-lon.site>, <de-cathlon.store>, <decath-lon.world>, <decath-lon.xyz>, and <decath-lon.store> are registered with GoDaddy.com, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2024. On June 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names <de-cathlonfranchisemodel.live>, <decath-lon.live>, <decath-lon.site>, <de-cathlon.store>, <decath-lon.world> and <decath-lon.xyz> (“Original Domain Names”). On June 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Original Domain Names which differed from the named Respondent (“Registration Private / Domains By Proxy, LLC”) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 2024, 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 June 24, 2024.

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 Respondents of the Complaint concerning the Original Domain Names, and the proceedings commenced on June 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on July 19, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on July 26, 2024. 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.

On August 5, 2024, the Complainant requested to add the domain name <decath-lon.store> (“Additional Domain Name”, together with the Original Domain Names “disputed domain names”) to the pending proceeding. On August 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Additional Domain Name. On August 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Additional Domain Name which differed from the registrants of the Original Domain Names.

On August 16, 2024, the Center issued Administrative Panel Order No. 1:

- 1) requesting the Complainant to submit an amended Complaint by August 21, 2024, inclusive of the consolidation arguments and evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all disputed domain names are under common control;
- 2) inviting the Respondent for the Additional Domain Name to submit its comments on the Complainant’s amended Complaint by August 26, 2024, and indicate whether it would like to participate in the pending proceeding;
- 3) inviting the Respondents of the Original Domain Names to make any submissions by August 26, 2024, regarding the consolidation of the domain names; and
- 4) extending the due date for the Decision to August 31, 2024.

On August 21, 2024, the Complainant filed an amended Complaint requesting that the Additional Domain Name be consolidated into the pending proceeding. The Respondents of the Original Domain Names and the Respondent of the Additional Domain Name did not submit any response.

#### **4. Factual Background**

Founded in 1976 in Lille, France, the Complainant is one of the largest sporting goods manufacturers and retailers in the world.

As of 2023, the Complainant employed 101,000 employees in 1751 stores worldwide and had annual sale of EUR 15,6 billion.

The Complainant owns numerous national and international trademark registrations for DECATHLON, e.g., the International Trademark Registration No. 613216 registered since December 20, 1993, and valid in over 40 jurisdictions of the world.

The Complainant also owns numerous domain name registrations comprising its DECATHLON mark. For example, the domain name <decathlon.com>, which was registered on May 31, 1995, resolves to its corporate website.

The Original Domain Names were registered on the following dates: <de-cathlonfranchisemodel.live> on October 24, 2023, <de-cathlon.store> on March 12, 2024, <decath-lon.world> on April 1, 2024, <decath-lon.xyz> on April 7, 2024, <decath-lon.live> on April 16, 2024, and <decath-lon.site> on April 25, 2024. The Additional Domain Name <decath-lon.store> was registered on July 31, 2024.

The disputed domain names have resolved to webpages with almost identical layout and content that prominently referenced the Complainant's mark and business and displayed information purporting to inform consumers about franchise opportunities with the Complainant including an application form titled "Start Your Decathlon Franchise".

Currently the disputed domain names do not resolve to any active websites.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that:

- the disputed domain names which all reproduce its DECATHLON mark, separated with a hyphen between "de" and "cathlon" and "decath" and "lon" along with the terms "franchise" and "model" are confusingly similar to the mark at issue;
- the Respondents have no rights or legitimate interests in respect of the disputed domain names and are unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy; and
- the Respondents have registered the disputed domain names most likely being aware of its well-known DECATHLON mark and used them to take advantage of the reputation and goodwill built up by the Complainant in the mark at issue.

The Complainant requests that the disputed domain names be transferred from the Respondents to the Complainant.

### **B. Respondents**

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

## **6. Discussion and Findings**

### **Consolidation: Multiple Underlying Respondents**

The amended Complaint was originally filed in relation to the six Original Domain Names registered by nominally three different domain name registrants.

As mentioned above, following the Notification of the Complaint and Commencement of this administrative proceeding the Complainant has added the Additional Domain Name to the pending proceeding and requested that it also be consolidated into the proceeding.

The Complainant alleges that the Original Domain Names and the Additional Domain Name are all under common control which warrants the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The Original Domain Names' registrants and the Additional Domain Name's registrant did not comment on the Complainant's request.

According to paragraph 10(e) of the Rules “a Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. In addressing the Complainant’s request for consolidation, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2.

As a general rule, domain names held by the same registrant(s) may be added to a complaint before notification of the respondent(s) formal commencement of the relevant proceeding. After the notification of the complaint to the respondent(s) and commencement of the proceeding a domain name may be added to the complaint if the complainant holds relevant trademark rights and the proposed additional domain name is prima facie registered by the same or related respondent. [WIPO Overview 3.0](#), sections 4.12.1 and 4.12.2.

The Panel finds that the Complainant has provided sufficient evidence to establish that the Original Domain Names are subject to a common control for the following reasons:

- the Respondents are all located in Delhi, India, and none of them responded to the Complaint and the Complainant’s assertions;
- the Original Domain Names were registered through the same Registrar within a relatively short time period;
- the Original Domain Names follow the same naming pattern, incorporating the Complainant’s mark in highly similar fashion, and as mentioned above with the addition of generic terms;
- the websites to which the Original Domain Names resolved shared almost identical content and layout as mentioned above.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

The Panel finds that the above facts and circumstances apply to the Additional Domain Name as well. Also the Complainant holds relevant trademark rights regarding the Additional Domain Name, which for the above mentioned reasons appears to be registered by the same or a related respondent. In addition, the fact the Additional Domain Name was registered on July 31, 2024, subsequent to the notification of the Complaint is in view of the Panel clear evidence of the respondent(s) gaming/attempts to frustrate the proceeding.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different registrants (hereinafter: “Respondent”) of the Original Domain Names and the Additional Domain Name in a single proceeding.

#### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain names all reproduce the Complainant’s DECATHLON mark in a similar fashion: the mark is separated with a hyphen between “de” and “cathlon” and “decath” and “lon”. The Complainant’s mark is clearly recognizable within the disputed domain names which the Panel finds confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (in this case “franchise” and “model” concerning the disputed domain name <de-cathlonfranchisemodel.live>) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds that the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

As shown by the Complainant, the Respondent used the disputed domain names to confuse Internet users presumably looking for the Complainant and misleading them to the Respondent’s own, almost identically looking, websites that prominently referenced the Complainant’s mark and business and displayed information purporting to inform consumers about franchise opportunities with the Complainant including an application form titled “Start Your Decathlon Franchise”.

The Complainant has clearly not authorized any activities of the Respondent and in context of this case any use of its DECATHLON mark thereby to induce potential interested parties into believing that they could apply to be a franchisee of the Complainant. Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain names constitute bad faith under the Policy.

It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant’s DECATHLON trademark is globally well-known (see e.g., *Decathlon v. Name Redacted*, WIPO Case No. [D2017-1490](#)). Prior UDRP panels have consistently found that the mere registration of a

domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent's incorporation of the Complainant's well-known trademark in the disputed domain names convinces the Panel that the Respondent clearly had the Complainant's mark in mind at the time of registration and that it registered the disputed domain names in order to target the Complainant and its trademark within the meaning of paragraph 4(b)(iv) of the Policy.

As mentioned above, the Respondent used the disputed domain names to direct Internet traffic to its websites at which it posed as the Complainant, appearing to grant potential franchisees the right to operate a Decathlon business. Panels have held that use of domain name for illegal activity, such as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In view of the Panel the fact that the Respondent registered the Additional Domain Name <decath-lon.store> after being notified of this case, and most likely in response to the commencement of this administrative proceeding, amounts to an attempt to frustrate the proceeding by potentially increasing the Complainant's costs, time, and inconvenience and is further indicative of the Respondent's bad faith.

As mentioned above, currently the disputed domain names do not resolve to any active websites.

However, the current passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy when considering the totality of the circumstances. [WIPO Overview 3.0](#), section 3.3. In this regard the Panel notes the distinctiveness and reputation of the Complainant's trademark; the composition of the disputed domain names as mentioned above and the Respondent's failure to respond to the Complaint and provide any good faith explanation as to its registration and use of the disputed domain names.

The Panel finds that the Complainant has established the third element 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 names, <de-cathlonfranchisemodel.live>, <decath-lon.live>, <decath-lon.site>, <de-cathlon.store>, <decath-lon.world>, <decath-lon.xyz>, and <decath-lon.store> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: August 31, 2024