

ADMINISTRATIVE PANEL DECISION

The International Olympic Committee v. Proxy Protection LLC /
Shiva Creation
Case No. D2022-0428

1. The Parties

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

The Respondent is Proxy Protection LLC, Canada / Shiva Creation, India.

2. The Domain Name and Registrar

The disputed domain name <olympicliveonline.com> (the “Disputed Domain Name”) is registered with DreamHost, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2022. On February 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 8, 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 the Complainant on February 10, 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 February 15, 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 February 16, 2022. On February 16, 2022, and February 21, 2022, the Respondent sent two informal email communications.

In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2022. The Respondent did not submit any formal response. Accordingly, the Center informed the Parties that it would proceed to Panel appointment on March 9, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on March 11, 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 is an international, non-governmental, and non-profit organization, which is responsible for supervising the organization of the Olympic Games. On June 23, 1894, Baron Pierre de Coubertin founded the Complainant as the umbrella organization of the Olympic Movement. In 1896, the Complainant hosted the first Olympic Games of the modern era in Athens, Greece. Since then, the Complainant has supervised the organization of the Olympic Games. The Complainant has conducted dozens of Olympic Winter and Summer Games, most recently the 2022 Beijing Olympic Winter Games. The Complainant owns all rights to the Olympic Games, the Olympic symbol, the Olympic flag, motto and anthem, including the word “olympic” and its Host City & Year trademarks when associated with the Olympic Games.

The Complainant owns trademarks for its services in numerous jurisdictions worldwide, including, but not limited to: OLYMPIC, International Trademark Registration No. 1128501A, registered on November 8, 2011, in international classes 1-45; and OLYMPIC, Swiss Trademark Registration No. 621700, registered on October 21, 2011, in international classes 1-45 (hereinafter collectively referred to as the “OLYMPIC Mark”).

The Complainant owns the domain name <olympic.org>, which resolves to its official website at “www.olympic.org”. In 2016, the Complainant launched a digital platform called the “Olympic Channel” that allows the general public to view original programming, live sports events, and reports throughout the year, accessible via the website “www.olympicchannel.com” and also via mobile applications.

The Disputed Domain Name was registered on July 24, 2021, and initially resolved to a website entitled “Beijing Winter Olympics Live Stream Online 2022 – Watch abroad with VPN”. The website displayed information about the 2022 Beijing Olympic Winter Games, a broadcasting guide and a streaming guide. Moreover, the Respondent displayed the Complainant’s trademarks prominently in several places on its website, explicitly stating that the trademarks are the property of the Complainant, as they are “registered trademarks owned and licensed by [the Complainant] International Olympic Committee”. The Respondent also included a disclaimer, stating that the website was not affiliated with or sponsored by the Complainant. The Respondent further stated that the website was used as part of an affiliate scheme to attract Internet users and redirect them to an affiliate website in exchange for a commission. The Complainant provided screenshots of the website pages as an Annex to the Complaint.

5. Parties’ Contentions

A. Complainant

The following are the Complainant’s contentions:

- the Disputed Domain Name is confusingly similar to the Complainant’s OLYMPIC Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith; and

- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

The Respondent only indicated that he "deleted" the Disputed Domain Name.

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry, a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the OLYMPIC Mark.

It is uncontroverted that the Complainant has established rights in the OLYMPIC Mark based on its years of use, its fame and reputation, and its registered trademarks for the OLYMPIC Mark internationally. The general consensus is that "registration of a mark is *prima facie* evidence of validity, which creates a rebuttable presumption that the mark is inherently distinctive". See *CWI, Inc. v. Domain Administrator c/o Dynadot*, WIPO Case No. D2015-1734. The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the OLYMPIC Mark.

The Disputed Domain Name consists of the OLYMPIC Mark in its entirety albeit with an additional "s", followed by the terms "live" and "online", and then followed by the generic Top-Level Domain ("gTLD") ".com". Such modifications do not prevent a finding of confusing similarity between the Complainant's OLYMPIC Mark and the Disputed Domain Name, due to the presence of the trademark in its entirety in the Disputed Domain Name. It is well established that a domain name that wholly incorporates a trademark is confusingly similar to that trademark for purposes of the Policy despite the addition of another term or terms. As stated in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". For example, numerous UDRP decisions have reiterated that the addition of a term to a trademark does not prevent a finding of confusing similarity. See *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. [D2011-0795](#); *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

Finally, the addition of a gTLD such as ".com" in a domain name is technically required. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11. Thus, the Panel finds that the Disputed

Domain Name is confusingly similar to the Complainant's OLYMPIC Mark. Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production to demonstrate rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its OLYMPIC Mark nor has the Respondent ever had a business relationship with the Complainant. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, or that the Respondent has made any demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Based on the use made of the Disputed Domain Name initially to resolve to a website with information about the 2022 Beijing Olympic Winter Games, a broadcasting guide and a streaming guide while using the OLYMPIC Mark prominently on that website, the Panel finds that the Respondent is not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name. Instead, the Respondent has intentionally chosen a domain name based on a well-known registered trademark in order to generate traffic and income for commercial gain. The Respondent cannot assert that it is making a legitimate noncommercial or fair use of the Disputed Domain Name since the website to which it resolves states that the website is used as part of an affiliate scheme to attract Internet users and redirect them to an affiliate website in exchange for a commission. The presence of a disclaimer at the bottom of the website, stating that the Disputed Domain Name is not affiliated with, supported or endorsed by the Complainant is not sufficiently clear or prominent to avoid misleading Internet users.

Moreover, the composition of the Disputed Domain Name, comprising the entirety of the OLYMPIC Mark and the letter "s" plus the additional terms "live" and "online" related to the Complainant's area of business, which (especially in the absence of an explanation from the Respondent) does not seem to be a mere coincidence, carries a risk of implied affiliation and cannot constitute fair use here, as it may effectively suggest sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy.

First, the registration of a domain name that reproduces a widely known trademark in its entirety (being identical or confusingly similar to such trademark) by an individual or entity that has no relationship to that mark, without any reasonable explanation on the motives for the registration, can by itself create a presumption of bad faith. Based on the circumstances here, the Panel finds that the Respondent registered and is using the Disputed Domain Name in bad faith to target the Complainant's OLYMPIC Mark.

Second, the Panel concludes that the Respondent registered and used the Disputed Domain Name in bad faith in an attempt to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's OLYMPIC Mark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name's resolving website. The Respondent's registration and use of the Disputed Domain

Name indicate that such registration and use had been done for the specific purpose of trading on the name and reputation of the Complainant and its OLYMPIC Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) (“[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain”).

Third, the Panel finds that the Respondent had actual knowledge of the Complainant's OLYMPIC Mark and targeted the Complainant when it registered the Disputed Domain Name, demonstrating the Respondent's bad faith. Based on the use made by the Complainant of the OLYMPIC Mark worldwide, it strains credulity to believe that the Respondent had not known of the Complainant or its OLYMPIC Mark when registering the Disputed Domain Name. The Respondent's awareness of the Complainant and its OLYMPIC Mark additionally suggests that the Respondent's decision to register the Disputed Domain Name was intended to cause confusion with the Complainant's OLYMPIC Mark and its <olympic.org> domain name. Such conduct indicates that the Respondent registered and used the Disputed Domain Name in bad faith. Thus, the Panel finds that the Respondent had actual knowledge of the OLYMPIC Mark and targeted the Complainant when it registered the Disputed Domain Name, demonstrating the Respondent's bad faith.

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <olympicsliveonline.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: March 25, 2022