



URS | DETERMINATION
(URS Procedure 9, URS Rules 13)

URS DISPUTE NO. 25AFDDE7

Determination DEFAULT

I. PARTIES

Complainant: Association Des Centres Distributeurs E. LECLERC (A.C.D. Lec), France
Complainant's authorized representative(s): INLEX IP EXPERTISE, JULIE DULMAN, France

Respondent: GDPR Masked, GDPR Masked, USA

II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR

Domain Name(s): LECLERC.GLOBAL
Registry Operator: Dot Global Domain Registry Limited
Registrar: PDR Ltd. d/b/a PublicDomainRegistry.com

III. PROCEDURAL HISTORY

Complaint submitted: 2020-02-26 17:50
Lock of the domain name(s): 2020-02-28 04:22
Notice of Complaint: 2020-02-28 13:15
Default Date: 2020-03-14 00:01
Notice of Default: 2020-03-14 11:08
Panel appointed: 2020-03-14 11:09

IV. EXAMINER

Examiner's Name: Ganna Prokhorova

The Examiner certifies that she has acted independently and impartially and to the best of her knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

V. RELIEF SOUGHT

The Complainant requests that the domain name be suspended for the balance of the registration period.

The Respondent has not submitted a Response.

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant:

The Complainant owns several French, European Union and International trademarks composed of the denomination LECLERC, and notably trademark LECLERC, EU reg. No 002700656, filed on May 17th, 2002 and registered on February 26th, 2004 in classes 1-45.

The Complainant asserts that it widely uses its trademark in connection with a chain of super and hypermarket stores which is well-known in France and in several other European countries, namely there are 721 LECLERC stores in France and around 100 in the other European countries where the Complainant runs its business.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name is identical or confusingly similar to a word mark [URS 1.2.6.1]: for which the Complainant holds a valid national or regional registration and that is in current use;
2. Registrant has no legitimate right or interest to the domain name [URS 1.2.6.2];
3. The domain name was registered and is being used in bad faith [URS 1.2.6.3] such as:

The domain name was registered in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct;

By using the domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location.

B. Respondent:

The Respondent has not submitted a Response.

C. Procedural findings:

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

In accordance with URS Procedure Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

D. Findings of fact:

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires Complainant to make a prima facie case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended.

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:

(i) for which the Complainant holds a valid national or regional registration and that is in current use; or



- (ii) that has been validated through court proceedings; or
- (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.

[URS 1.2.6.3.] The domain was registered and is being used in bad faith.

E. Reasoning:

1. The domain name(s) is(are) identical or confusingly similar to a word mark

The Complainant is the owner of European Union trademark registration for the “LECLERC” mark.

The domain name <leclerc.global> includes the Complainant’s “LECLERC” mark in its entirety. The only difference is the addition of the gTLD “.global”. The addition of the gTLD does not prevent the finding of the domain name is identical to the Complainant’s mark under the first element.

The Complainant has satisfied URS 1.2.6.1 as the disputed domain name is identical to the Complainant’s registered trademark.

2. Respondent has no rights or legitimate interests to the domain name(s)

There is no evidence that the Respondent is known by the disputed domain name. The the domain name was registered anonymously and such circumstance may be regarded as an indication that the Respondent is willing to hide his identity and the content of the associated website as well as the WHOIS database details do not indicate that the Respondent's name is composed of the term LECLERC, that the Respondent is commonly known or runs a business under this name or has rights on the name LECLERC.

The Complainant has not authorized the Respondent to use its “LECLERC” mark. The Respondent has no link of any nature with the Complainant and there is no business relationship between the Complainant and the Respondent.

The Respondent provided no official response to the Complaint.

Thus, the Examiner finds that Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the domain names.

3. The domain name(s) was(were) registered and is(are) being used in bad faith

A non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant include:

- a. Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable

consideration in excess of documented out-of-pocket costs directly related to the domain name; or

b. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or

c. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or

d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.

The Complainant has provided evidence that its trademark LECLERC has been recognized by the consumers and its supermarket/hypermarket chain under LECLERC trademark is well known in France and Europe for many years that was confirmed in many decisions issued by the WIPO Arbitration and Mediation Center (see for example Cases No D2019-0108, No D2018-1185, No D2018-0659).

The Complainant asserts that the Respondent has undoubtedly registered the domain name precisely in order to unduly benefit from the Complainant's widely known rights, and the consumers may believe that the domain name is operated by or linked to the Complainant. The Examiner agrees.

The disputed domain name resolves to an inactive webpage <http://www.leclerc.global> and is consequently deprived of any real and substantial offer of goods/services. The customers may incorrectly believe the website belongs to the Complainant but is not functioning correctly.

The Examiner also takes due note that the Complainant's representative tried to reach the Respondent through the Registrar, which confirmed having communicated the letter to the Respondent but it remained unanswered since November 13th, 2019.

Therefore, the Examiner finds that the disputed domain name being identical to the Complainant's rights and the Internet users can falsely believe that the website associated to the domain name is operated by the Complainant.

The Complainant has therefore satisfied URS 1.2.6.3 (d) as the Respondent registered the disputed domain names and is using it in bad faith.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts



Domain Name(s): LECLERC.GLOBAL

Suspends for the balance of the registration period

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Determination

SIGNATURE

Name: Ganna

Surname: Prokhorova

Date: 18 March 2020