



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

**URS DISPUTE NO. 27C4BB02**

Determination DEFAULT

**I. PARTIES**

Complainant: Association Des Centres Distributeurs E. LECLERC (A.C.D. Lec) (FR)  
Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent: Contact Privacy Inc. Customer 0169265273 (CA)

(collectively, 'the Parties')

**II. THE DOMAIN NAME, REGISTRY OPERATOR AND REGISTRAR**

Domain Name: ELECLERC-COOKEO-180-RECETTES.SHOP ('the disputed domain name')  
Registry Operator: GMO Registry, Inc.  
Registrar: Tucows Domains Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 2024-01-09 15:56  
Lock of the disputed domain name: 2024-01-11 04:17  
Notice of Complaint: 2024-01-15 10:38  
Default Date: 2024-01-30 00:00  
Notice of Default: 2024-01-30 13:26  
Panel Appointed: 2024-01-30 17:19  
Default Determination issued: 2024-01-31 14:56

**IV. EXAMINER**

Examiner's Name: Gustavo Moser

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

**V. RELIEF SOUGHT**

The Complainant requests that the disputed 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. Disputed domain name**

The disputed domain name <eleclerc-cookeo-180-recettes.shop> was registered on 11 November 2023 and, at the time of writing, it does not resolve to an active website ('the Respondent's website').

### **B. Complainant:**

#### **B.1 Trade mark standing**

For the purposes of this URS dispute, the Complainant relies on the following registered trade marks:

- EU trade mark registration no. 002700664, filed on 17 May 2002, for the word mark E LECLERC, in all classes of the Nice Classification; and
- EU trade mark registration no. 011440807, filed on 5 December 2012, for the figurative mark E LECLERC, in all classes of the Nice Classification

(collectively or individually, 'the Complainant's trade mark'; 'the Complainant's trade mark E LECLERC'; or 'the trade mark E LECLERC').

#### **B.2 Factual allegations**

The Complainant is a French food retailer, whose chain of supermarket stores is well known in France and in several other European countries. The Complainant's retail network comprises 735 stores and approximately 140,000 employees across France. The Complainant reported a turnover of EUR 55bn in 2022, which accounts for nearly 25% of the grocery market share.

The Complainant seeks to obtain the suspension of the disputed domain name on the grounds advanced in section B.3 below.

#### **B.3 Submissions**

##### **i. The disputed domain name is identical or confusingly similar to a word mark**

The Complainant submits that the disputed domain name incorporates the Complainant's trade mark E LECLERC in its entirety; that 'e leclerc' has no meaning in French or English and is highly distinctive; that the Top-Level Domain suffix ('the TLD') <.shop> has no bearing on the confusing similarity test; and that the presence of the generic terms heightens the risk of confusion with the Complainant's trade mark, for the following reasons: (a) the term 'cookeo' is a trade mark owned by a third party, whose kitchen appliance products are commercialised in the Complainant's stores; and (b) the generic terms '180 recettes' (180 recipes in French language) directly refers to the COOKEO kitchen appliances.

##### **ii. Respondent has no rights or legitimate interests to the disputed domain name**

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no link of any nature with the Complainant and has not been authorised by the Complainant to use the Complainant's trade mark. Furthermore, there is no business relationship between the Parties.



### **iii. The disputed domain name was registered and is being used in bad faith**

The Complainant submits that the disputed domain name was registered and is being used in connection with a fraudulent website which reproduces the Complainant's official website, for instance, logo, hyperlinks referring thereto, and that mail servers were set up. Furthermore, the Respondent has failed to respond to the Complainant's cease and desist letter and further reminders, which is another indicium of bad faith.

#### **C. Respondent:**

The Respondent has failed to serve a Response in this URS administrative proceeding, the result of which being that the Complainant's factual allegations and submissions are uncontested.

#### **D. 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 Rules Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

#### **E. Findings of fact:**

The disputed domain name was registered on 11 November 2023.

The disputed domain name does not resolve to an active website.

The Complainant has, to the satisfaction of the Examiner, adduced proof that the Complainant has trade mark rights in 'E LECLERC'.

#### **F. Reasoning:**

Pursuant to paragraph 13 of the URS Rules, the Examiner shall make a Determination of a Complaint in accordance with the URS Procedure, the URS Rules and any rule and principles of law that the Examiner deems applicable.

Paragraph 1.2.6 of the URS Procedure sets out the grounds which the Complainant must establish to succeed:

1. The disputed domain name is identical or confusingly similar to a word mark;
2. The Respondent has no rights or legitimate interests to the disputed domain name; and
3. The disputed domain name was registered and is being used in bad faith.

It is therefore incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the URS procedure is clear and convincing, which lays down the foundations for examiners to determine each of the three URS Procedure grounds.

#### **1. The disputed domain name is identical or confusingly similar to a word mark**

The Panel is satisfied that the Complainant owns trade mark rights in 'E LECLERC', since at least 2002, as supported by its submission into evidence of screenshots from the websites of the trade mark offices referencing the particulars of the Complainant's trade mark registrations.

The disputed domain name <eleclerc-cookeo-180-recettes.shop> is composed of the terms 'eleclerc', 'cookeo' and '180 recettes', each of which connected by a dash ('-'). The Panel notes the following:

- The trade mark E LECLERC is fully incorporated into the disputed domain name;
- The additional term 'cookeo' may well refer to the Complainant's client's products COOKEO, which relate to kitchen appliances and are commercialised in the Complainant's stores; and
- The generic terms '180 recettes' can be translated into '180 recipes' in English language.

The above terms are unable to produce any distinctive character and, therefore, insufficient to rarefy the link with the Complainant's trade mark. On the contrary, the above terms well evoke the art of cooking, which is intertwined with the Complainant's segment of business (food retail). The Examiner further notes that TLD suffixes (<.shop> in this matter) are typically disregarded in the assessment of confusing similarity for being part of the anatomy of a domain name (see, for comparative analysis, WIPO Panel Views on Selected UDRP Questions, Third Edition, paragraph 1.11 ('the WIPO Jurisprudential Overview 3.0')).

Accordingly, the Examiner finds that the disputed domain name is confusingly similar to the Complainant's trade mark, the result of which being that the Complainant has succeeded under paragraph 1.2.6.1 of the URS Procedure.

## **2. Respondent has no rights or legitimate interests to the disputed domain name**

The second ground of the URS Procedure provides that the Respondent shall demonstrate that it has rights or legitimate interests in the dispute domain name. It therefore falls on the Complainant the burden to rebut any such allegations.

Notwithstanding the above, the Respondent did not submit a Response in this URS dispute. Therefore, the Examiner will proceed to determine the dispute on the basis of the available evidence.

The Examiner notes that the Complainant denies any affiliation and/or association with, or authorisation for, the Respondent of any nature. Moreover, the Complainant further argues that the Respondent is not known by the disputed domain name, and there is no evidence to the contrary on the record.

The Complainant has provided evidence to support its contentions, the contents of which remained unchallenged by the Respondent.

For the foregoing reasons, and noting that the Respondent has not provided a Response to refute any of the allegations and evidence adduced by the Complainant in this URS dispute, the Examiner finds that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name under paragraph 1.2.6.2 of the URS Procedure.

## **3. The disputed domain name was registered and is being used in bad faith**



In order to meet the third requirement under the URS Procedure, the Complainant must provide evidence that the disputed domain name was registered and is being used in bad faith. The URS Procedure, in paragraph 1.2.6.3, enumerates non-exhaustive circumstances which would evidence bad faith registration and use of the disputed domain name by the Respondent, as follows:

- a. Circumstances indicating that the disputed domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the disputed 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 the Respondent's out-of-pocket costs directly related to the disputed domain name;
- b. The disputed 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;
- c. The disputed domain name was registered primarily for the purpose of disrupting the business of a competitor; and
- d. By using the domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Examiner has looked at the overall composite picture of events and finds it, collectively, to be sufficient to give rise to a finding of bad faith registration and use of the disputed domain name by the Respondent, for the following reasons:

- The disputed domain name <eleclerc-cookeo-180-recettes.shop> wholly incorporates the Complainant's trade mark E LECLERC. The additional components of the disputed domain name heighten the link with the Complainant;
- There is no credible explanation for the Respondent's choice of the disputed domain name, which was registered in 2023. The Complainant has been in operation for many years before, including through the use of the domain name <eleclerc.com>, which was registered in 1998. The Examiner does not view favourably the Respondent's behaviour at all, and finds that the Respondent was likely well aware of the Complainant given the totality of evidence presented in support of the Complainant's case;
- The Respondent has not provided a Response within the time prescribed under the URS Rules, or at all, and has thus failed to offer any explanation or justification for the matters raised by the Complainant in the context of this URS dispute. The Examiner is empowered to draw adverse inferences by such failure (URS Rules paragraph 12);
- There is nothing on the record suggesting that the Respondent is affiliated or otherwise connected with the Complainant, and the Complainant in any event firmly denies any association;

- The disputed domain name does not currently resolve to an active website and there is no evidence that it has ever held any active content. However, the Complainant has provided documentary evidence that mail servers have been set up, which suggests that the disputed domain name may be actively used for email purposes. On balance, the Respondent's behaviour would therefore fall into the remit of circumstance .d of paragraph 1.2.6.3 of the URS Procedure; and
- Taken the above together, the overall unlikelihood of any good faith use of the disputed domain name.

In view of the above, the Examiner finds that the Complainant has met the requirement under paragraph 1.2.6.3 of the URS Procedure.

#### **4. Abusive Complaint**

For the avoidance of doubt, the Examiner finds that the Complaint was not brought by the Complainant abusively nor does the Complaint contain any deliberate material falsehoods.

### **VIII. DETERMINATION**

#### A. Demonstration of URS elements

Demonstrated

#### B. Complaint and remedy

Complaint: Accepts

Domain Name: ELECLERC-COOKEO-180-RECETTES.SHOP  
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: Gustavo  
Surname: Moser  
Date: 2024-01-31