



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

URS DISPUTE NO. 450218EE

Determination DEFAULT

I. PARTIES

Complainant(s): Association Des Centres Distributeurs E. LECLERC (A.C.D. Lec) (FR)
Complainant(s)'s authorized representative(s): Inlex IP Expertise (FR)

Respondent(s): Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf (IS)

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

Domain Name(s): SIPLECLERC.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Namecheap, Inc.

III. PROCEDURAL HISTORY

Complaint submitted: 2021-11-18 16:04
Lock of the domain name(s): 2021-11-19 10:36
Notice of Complaint: 2021-11-22 16:34
Default Date: 2021-12-07 00:00
Notice of Default: 2021-12-07 16:39
Panel Appointed: 2021-12-07 16:39
Default Determination issued: 2021-12-10 08:23

IV. EXAMINER

Examiner's Name: Ankur Raheja

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 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 operates one of the largest supermarket / hypermarket chains in France and has an online presence at www.e.leclerc. It owns a number of trademarks and domain names, including the domain name extension '.LECLERC'. The Complainant's European Union trademark LECLERC No 002700656, filed on 17 May 2002 and registered on 26 February 2004, is in use and well-known in connection with a chain of supermarket and hypermarket stores in France and in several other European countries.

There are more than 720 LECLERC stores in France and around 100 in the other European countries where the Complainant runs its business. With more than 20% of the market share on all products, the Complainant is leader of the large-scale distribution in France. In 2019, the Complainant's turnover was 48,20 billion of Euros in France, and it employs approximately 133000 people.

Furthermore, one of the Complainant's companies named Societe D'Importation Leclerc (official acronym 'SIPLEC') is responsible for international purchasing for the group has an online presence at www.siplec.leclerc.

B. Respondent:

The Respondent did not submit the Response.

C. Procedural findings:

Having reviewed the communication 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:

The disputed domain name was registered on 30 August 2021.

The Complainant has demonstrated that it has registered rights in the word mark LECLERC, and otherwise SIPLEC is the official acronym for one of the Complainant's companies. The disputed domain name is a combination of the mark and the acronym. Besides, in previous domain dispute decisions as annexed to the Complaint, numerous Panels have held LECLERC to be a well-known mark.

The disputed domain name is parked with paid links competing with the Complainant, that includes French words like Jouets (*to mean Toys*), Magasin Jouets (*to mean Toy Stores*), Magasin Ecommerce (*to mean Ecommerce Store*), Supermarché Courses en ligne (*to mean Supermarket Online Shopping*) and more.

Lastly, the active MX records further evidences that the Respondent may have been indulging in illegal phishing or similar activities.

E. Reasoning:



According 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 rules and principles of law that it deems applicable.

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.

For the Complainant to succeed, it must establish that each of the three following conditions under 1.2.6 URS Procedure is satisfied:

- That the disputed domain name is identical or confusingly similar to a word mark;
- That the Registrant has no legitimate right or interest to the disputed domain name;
- That the disputed domain name was registered and is being used in bad faith.

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

The Complainant has registered wordmark for LECLERC with the European Union Intellectual Property Office (EUIPO) since 26 February 2004 under all the 45 classes covering all kind of goods and services. The use of the trademarks is evident from the Complainant websites at e.leclerc and siplec.leclerc.

The disputed domain name includes the Complainant's mark in its entirety, combined with prefix 'SIP'. The incorporation of the Complainant's registered mark into the domain name, is sufficient to establish identity or confusing similarity for purposes of the Policy.

Besides it is well-established that the extensions in a disputed domain name do not affect a finding of similarity, because it is technically required for the operation of a domain name. The practice of disregarding the TLD in determining confusing similarity is applied irrespective of the particular TLD, including with regard to new gTLDs. The meaning of a certain new gTLD, like '.SHOP', may however be relevant to panel assessment under the second and the third elements.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.1. of the URS Procedure have been satisfied.

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

The disputed domain name is parked with paid links / PPC ADs which mostly fall under the same category of products/services as being offered by the Complainant at its ecommerce store at www.e.leclerc. Further, the keywords used within the disputed domain name, make reference to the Complainant only as acronym 'SIPLEC' and the mark 'LECLERC', both are in active use by the Complainant. The said conduct of the Respondent indeed demonstrates knowledge of and familiarity with Complainant's mark and nature of business.

The Complainant has met its burden by presenting a prima-facie case in this URS matter, while the Respondent has provided no response to the Complaint. Furthermore, the Complainant has neither authorized the Respondent to make use of its mark in any manner nor the Respondent is known by the disputed domain name.

Based on the above, the Examiner finds that the Respondent lacks any rights or legitimate interests with respect to the disputed domain name as per the requirements set forth under Paragraph 1.2.6.2. of the URS Procedure.

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

The disputed domain name is highly confusing with the Complainant's rights in the word mark LECLERC and the official acronym SIPLEC used by its company. The TLD '.SHOP' further evidences bad faith on the part of the Respondent, as it again refers to the Complainant's activities of supermarkets and hypermarkets.

Further, it is quite evident that by parking the disputed domain name with competing paid links, the Respondent has intentionally attempted to attract for commercial gain, Internet users to the Respondent's web site by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, and endorsement of the Respondent's web site.

That is, the Respondent is not offering any bona-fide goods or services upon the disputed domain name, rather it is an attempt to disturb Complainant's business. Besides, the active MX records further indicates the intentions that the Respondent has; the disputed domain name could be easily used for phishing or other similar cybercrime activities.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

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): SIPLECLERC.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: Ankur
Surname: Raheja
Date: 2021-12-10