



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

**URS DISPUTE NO. 69BE5F0**

Determination DEFAULT

**I. PARTIES**

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

Respondent(s): Whois Privacy, Private by Design, LLC (US)

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

Domain Name(s): E-LECLERC.PLUS  
Registry Operator: Binky Moon, LLC  
Registrar: Porkbun LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2023-06-09 09:27  
Lock of the domain name(s): 2023-06-09 18:22  
Notice of Complaint: 2023-06-12 10:00  
Default Date: 2023-06-27 00:00  
Notice of Default: 2023-06-28 00:13  
Panel Appointed: 2023-06-28 00:24  
Default Determination issued: 2023-07-03 12:07

**IV. EXAMINER**

Examiner's Name: Eugénie Chaumont

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 indicated that it operates one of the largest supermarket / hypermarket chains in France with 721 E.LECLERC stores located all over the country and has an online presence at [www.e.leclerc](http://www.e.leclerc).

It is well known in France and in many European countries, and owns several trademarks, including the denomination E LECLERC as European Union trademarks :

- E LECLERC No 002700664 filed on May 17<sup>th</sup>, 2002 and registered on January 31<sup>st</sup>, 2005
- E LECLERC (and device) No 011440807 filed on December 5<sup>th</sup>, 2012 and registered on May 27<sup>th</sup>, 2013

The Complainant claims that it makes extensive use of its trademarks in connection with a chain of supermarket and hypermarket stores in France and in several other European countries.

The Complainant asserts the following:

1. The disputed domain name is identical to the Complainant's trademark

The New gTLD “.plus” should not be taken into account as it is a compulsory element of a domain name. Therefore, the relevant part of the disputed domain name is "e-leclerc".

E LECLERC has no meaning in either French or English, is not a dictionary or common word, and is therefore highly distinctive.

2. The Respondent has no legitimate right or interest in the domain name

The Respondent, which has no link of any nature with the Complainant, has no legitimate interests or rights in the registration and in the use of the disputed domain name.

Indeed, the domain name was registered anonymously and such circumstance may be regarded as an indication that the Respondent is willing to hide its identity. Plus, the content of the associated website, as well as the WHOIS database details, do not indicate that the Respondent name is composed of the term E.LECLERC, that the Respondent is commonly known or runs a business under this name or has rights on the name E.LECLERC.

The Respondent has not been authorized by the Complainant to use the name E LECLERC and there is no business relationship between them.

3. The domain name was registered in bad faith

The E LECLERC supermarket/hypermarket network and trademark is well known in France and Europe.

With over than 22% of the grocery market share at the beginning of 2022, the Complainant is the leader of the large-scale distribution in France. In 2019, the turnover



of the Complainant was 48.20 billion of euros in France, and the Complainant employs approximately 133 000 people.

The reputation of the Complainant's trademarks LECLERC and E LECLERC has been acknowledged in many decisions issued by the WIPO Arbitration and Mediation Center.

4. The domain name is used in bad faith

The domain name being identical to the Complainant's rights, the Internet users can falsely believe that the website associated to the domain name is operated by the Complainant, which is not the case.

The disputed domain name resolves to an inactive page <https://www.e-leclerc.plus/> and is consequently deprived of any real and substantial offer of goods/services. The Complainant's customers may incorrectly believe the website belongs to the Complainant but is not functioning correctly. This perception will obviously be very harmful for the business, activities and image of the Complainant.

Finally, it should be stressed that the Complainant's representative sent a Cease-and-Desist letter and reminder to the Respondent through the Registrar, having no mean to directly reach the Respondent. However, no answer was received.

**B. Respondent:**

The Respondent did not submit a Response to the Complaint.

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

**D. Findings of fact:**

The registration date of the disputed domain name is April 30, 2023.

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 are 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.

### **E. Reasoning:**

For the Complainant to succeed, it must establish that each of the three conditions under the URS Procedure 1.2.6 are satisfied.

The burden of proof shall be clear and convincing evidence.

To conclude in favor of the Complainant, a Determination shall be rendered that there is no genuine issue of material fact.

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

The Complainant claims that the disputed domain name is confusingly similar to the E LECLERC trademarks.

The Examiner accepts that the additional “hyphen” instead of the space between E and LECLERC does not alter the underlying trademark or negate the confusing similarity, and it does not sufficiently differentiate the disputed domain name from the trademarks.

Indeed, the trademark is readily recognizable within the domain name and the hyphen is only a technical solution in order to replace the space.

In addition, the Examiner also finds that the “.plus” generic top-level domain (“gTLD”) does not prevent the finding of confusing similarity under the first element.

The Examiner considers that this TLD is a meliorative term that even enhances and reinforces confusion among Internet users, to the extent that the domain name e-leclerc.plus may well evoke the Complainant’s new offer of special products or services through the future Respondent’s website.

The documents concerning the Complainant and its trademarks’ use are only provided in the French language, no translation has been furnished in the procedure language.

Previous UDRP decisions are furnished in English and based on English documents.

Even if in French, the use of the trademarks is obvious in the documents furnished.

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

#### **2. The Registrant has no legitimate right or interest to the disputed domain name**

There is no evidence that the Respondent is known by the disputed domain name.

The domain name was registered anonymously, and such circumstance may be regarded as an indication that the Respondent is willing to hide its identity.

The Complainant asserts that the Respondent has not been authorized by the Complainant to use the trademark E LECLERC, which is well-known as recognized by several previous UDRP decisions.



The Respondent is not making a legitimate noncommercial or fair use and is not in connection with a bona fide offering of goods or services.

The Respondent never replied to the Complainant's representative Cease-and-Desist letter and reminder.

No website is attached to the domain name and the Respondent did not even reply to the Complainant's.

The Examiner finds that the Complainant has met its burden and established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name and the Respondent has not rebutted the assertion.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the domain name.

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

The disputed domain name is highly confusing with the Complainant's rights in the word mark E LECLERC. The TLD ".plus" further evidences bad faith on the part of the Respondent, as it can refer to the Complainant's activities of supermarkets and hypermarkets.

Further, it is quite absolutely clear that the Respondent intended to sell the domain name or to use it in order to attract, for commercial gain, Internet users to the Respondent's future web site by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, and endorsement of the Respondent's website.

The Respondent is not offering any bona-fide goods or services upon the disputed domain name, and do not reply neither to the Cease-and-desist letter nor to the Complaint.

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 : E-LECLERC.PLUS 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: Eugénie

Surname: Chaumont

Date: 2023-07-03