



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

URS DISPUTE NO. 789769B0

Determination DEFAULT

I. PARTIES

Complainant: ASSOCIATION DES CENTRES DISTRIBUTEURS E. LECLERC (A.C.D. LEC)

Complainant's authorized representative(s): INLEX IP EXPERTISE DULMAN JULIE

Respondent: QINZHICHAO NON DISCLOSED NON DISCLOSED

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

Domain Name(s): E-LECLERC.TEL, ELECLERC.TEL, LECLERC.TEL

Registry Operator: Telnames Limited

Registrar: Eranet International Limited

III. PROCEDURAL HISTORY

Complaint submitted: 2020-01-06 17:38

Lock of the domain name(s): 2020-01-08 14:45

Notice of Complaint: 2020-01-08 15:43

Default Date: 2020-01-23 00:00

Notice of Default: 2020-01-23 16:39

Panel Appointed: 2020-01-24 10:17

Default Determination issued: 2020-01-28 05:56

IV. EXAMINER

Examiner's Name: Jonathan Agmon

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 owns several French, European Union and International “LECLERC” and “E LECLERC” trademarks which are widely used in relation to a chain of super and hypermarket. The E LECLERC super and hypermarket chain was created in 1946 and there are currently 691 E LECLERC stores in France and around 100 stores in other European countries. The Complainant asserts that its chain of super and hypermarket stores is well-known in France and several other European countries.

The Complainant is the owner of following trademarks:

- European Union Trademark Registration No 002700656 for “LECLERC” registered on February 26, 2004;
- European Union Trademark Registration No 002700664 for “E LECLERC” registered on January 31, 2005; and
- European Union Trademark Registration No 011440807 for “E.Leclerc” with a device registered on May 25, 2013.

The Complainant asserts the following regarding the Respondent:

1. The registered domain names are identical or confusingly similar to a word or mark [URS 1.2.6.1]: for which the Complainant holds several international registrations and that are in current use.
2. Registrant has no legitimate right or interest to the domain names [URS 1.2.6.2]
3. The domain names were registered and is being used in bad faith [URS 1.2.6.3] such as: By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant’s web site or other online 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.

B. Respondent:

The Respondent appears to be a private registrant.

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.

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 registrations for the “LECLERC” and “E LECLERC” marks.

The domain name <e-leclerc.tel> includes the Complainant’s “E LECLERC” mark in its entirety. The only differences are the addition of a hyphen and the gTLD “.tel”. The addition of the hyphen and the gTLD do not prevent the finding of confusing similarity under the first element.

The domain name <eleclerc.tel> includes the Complainant’s “E LECLERC” mark in its entirety. The only differences are the omission of the space between the two words of the mark and the addition of the gTLD “.tel”. The omission of the space and the addition of the gTLD do not prevent the finding of confusing similarity under the first element.

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

The Complainant has satisfied URS 1.2.6.1 as the disputed domain names are confusingly similar to the Complainant’s registered trademarks.

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 names.

The Complainant has not authorized the Respondent to use either its “LECLERC” or “E LECLERC” mark.

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

The Complainant has met its burden. The Respondent provided no official response to the Complaint and has communicated through email the intention to drop/transfer to the Complainant the disputed domain names and the Auth codes (or similar) for the disputed domains.

The 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 the website that the disputed domain names resolve to contains multiple advertisements, including advertisements for gambling services and pornography. In so doing, the Respondent is intentionally attempting to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant's marks.

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

4. Abusive Complaint

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

VIII. DETERMINATION

After reviewing the Complainant's submissions, the Examiner determines that the Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby orders the following domain names be SUSPENDED for the duration of the registration.

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): E-LECLERC.TEL Suspends for the balance of the registration period

ELECLERC.TEL Suspends for the balance of the registration period

LECLERC.TEL 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: Jonathan

Surname: Agmon

Date: January 28, 2020