



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

URS DISPUTE NO. 8455A05F

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): Zhou Pu Pu (CN)

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

Domain Name(s): ALLIANCESLOCALLECLERC.TOP, ENERGILECLERC.TOP,
LECLERCBILLETTERIE.TOP, LECLERCDRIVE.TOP, LECLERCVOYAGES.TOP,
SEQUENLECLERC.TOP

Registry Operator: .TOP Registry

Registrar: West263 International Limited

III. PROCEDURAL HISTORY

Complaint submitted: 2021-04-26 17:20
Lock of the domain name(s): 2021-04-28 11:15
Notice of Complaint: 2021-04-28 16:18
Default Date: 2021-05-13 00:00
Notice of Default: 2021-05-13 21:15
Panel Appointed: 2021-05-13 21:22
Default Determination issued: 2021-05-15 19:16

IV. EXAMINER

Examiner's Name: Carrie Shang

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 is one of the largest French supermarket/hypermarket chains (www.e.leclerc), well-known in many countries. There are more than 720 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 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 Complainant also:

- provides ticketing services under the sign "LECLERC BILLETTERIE" (<https://www.leclercbilletterie.com/>);
- promotes the purchase of local products under the name "LES ALLIANCES LOCALES E.LECLERC" (<https://www.allianceslocales.leclerc/>);
- offers comics and mangas under the name "SEQUENCITY x E.LECLERC" (<https://www.sequencity.leclerc/fr-FR>).

The Complainant owns numerous trademarks and domain names including the denomination "E LECLERC", among which:

- the European Union Trademark "E LECLERC" No. 002700664 filed on 17 May 2002 and registered on 31 January 2005;
- the European Union Trademark "LECLERC" No. 002700656, filed on 17 May 2002 and registered on 26 February 2004;
- the International trademark "ENERGIES E. LECLERC" (& device) No. 1298402 registered on 13 January 2016 which designates the Complainant's offer of energy services for individuals (<https://www.energies.leclerc/>);
- the French and international trademarks "E.LECLERC DRIVE" No. 3865024 and "E.LECLERC Drive" (& device) No. 1052904 respectively filed on 7 October 2011 and registered on 20 July 2010, used to designate the Complainant's services allowing consumers to pick up goods previously purchased online on the dedicated website (<https://www.leclercdrive.fr/>);
- the French trademark "LECLERC VOYAGES" No. 1418425 filed on 16 July 1987, used since then by the Complainant for travelling services (<http://www.leclercvoyages.com/>);
- the domain names "e.leclerc", "energies.leclerc", "leclercdrive.fr", "leclercvoyages.com", "leclercbilletterie.com" and "sequencity.leclerc", all registered prior to the disputed domain names.

The Complainant widely uses its trademarks and domain names in connection with a chain of super and hypermarket stores and related services and are well-known in France and in several other European countries.

The Complainant contends that the disputed domain names are identical or confusingly similar to its trademarks and domain names, that the Respondent has no legitimate right or interest to the disputed domain names and that the disputed domain names were registered and are being used in bad faith.

B. Respondent:

The Respondent did not submit 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 Rules Paragraph 3(c), the Complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. The disputed domain names were all registered by the same registrant.

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 Complainant has provided sufficient documentary evidence to show to be owner numerous trademarks and domain names, registered worldwide, among which:

- the European Union Trademark "E LECLERC" No. 002700664 filed on 17 May 2002 and registered on 31 January 2005;
- the European Union Trademark "LECLERC" No. 002700656, filed on 17 May 2002 and registered on 26 February 2004;
- the International trademark "ENERGIES E. LECLERC" (& device) No. 1298402 registered on 13 January 2016 which designates the Complainant's offer of energy services for individuals (<https://www.energies.leclerc/>);
- the French and international trademarks "E.LECLERC DRIVE" No. 3865024 and "E.LECLERC Drive" (& device) No. 1052904 respectively filed on 7 October 2011 and registered on 20 July 2010, used to designate the Complainant's services allowing consumers to pick up goods previously purchased online on the dedicated website (<https://www.leclercdrive.fr/>);
- the French trademark LECLERC VOYAGES No. 1418425 filed on 16 July 1987, used since then by the Complainant for travelling services (<http://www.leclercvoyages.com/>);
- the domain names "e.leclerc", "energies.leclerc", "leclercdrive.fr", "leclercvoyages.com", "leclercbilletterie.com" and "sequencity.leclerc", all registered prior to the disputed domain names.

The Complainant has shown to widely use its trademarks and domain names in connection with a chain of super and hypermarket stores and related services.

The disputed domain names were all registered on 17 December 2020 by the same registrant Zhou Pu Pu, the Respondent in this proceeding.

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 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.

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

The Complainant contends that the dispute domain names are identical or confusingly similar to a word mark that the Complainant holds a valid national or regional registration and that is in current use.

As noted by other Examiners *"the use of the words "word mark" in URS 1.2.6.1 does not specifically exclude trademarks which are combined of a word element and a graphical element, provided the word element is clear, and sufficiently distinct and separate from the graphical element...As is also acceptable under the UDRP body of law, the word element in the trademark should not have been disclaimed leaving the design element the only element having the source of distinctiveness"* (see URS appeal determination, Forum case FA1604001672049 where this question was analyzed in detail and MFSD URS DISPUTE No. 369B0FE1).

In the present case, all the disputed domain names fully incorporate the Complainant's trademarks including the dominant word element of such marks (i.e. "LECLERC") and, thus, the Complainant's mark is clearly recognizable in all the disputed domain names.

In addition, some of the disputed domain names fully incorporates the Complainant's registered trademarks "LECLERC", "ENERGIES E. LECLERC", "E.LECLERC DRIVE" and "LECLERC VOYAGES". It should also be noted that the Complainant has registered and owns domain names with identifiable parts "e.leclerc", "energies.leclerc", "leclercdrive.fr", "leclercvoyages.com", "leclercbilleterie.com" and "sequencity.leclerc" prior to the creation date of the disputed domain names. Neither the addition and/or the deletion of certain single letters in the disputed domain names, nor the new generic TLD ".top" do affect the overall findings that the domain names are identical or confusingly similar to a word mark owned by the Complainant.

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

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

The Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests; and once such *prima facie* case is made, the burden shifts to the Respondent who has to demonstrate his rights or legitimate interests.

The Complainant made a *prima facie* case and the Respondent failed to respond and explain any rights or interests in respect of the disputed domain names.

According to the allegation of the Complaint, which has remained unchallenged, the Complainant has not authorized the Respondent's use of the trademarks LECLERC, e.g., by registering the disputed domain names comprising its trademark entirely. Furthermore, there is no evidence in the files to indicate that Respondent is commonly known by the disputed domain names. Finally, in the absence of any response, the Panel is not aware of any



trademark rights of the Respondent consisting of the term “LECLERC”. The Respondent, who has no link of any nature with the Complainant, does not seem to have legitimate interests or rights in the registration and in the use of the disputed domain names. Indeed, the content of the associated websites, as well as the WHOIS records 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 in the name LECLERC.

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

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. In the case at issue, the Respondent decided not to submit any Response or evidence of any concrete circumstances which could demonstrate, pursuant to the URS, that it has any rights or legitimate interests in the disputed domain names.

Under these circumstances, the Examiner finds that the requirement of URS Procedure 1.2.6.2 has been satisfied.

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

According to URS Procedure 1.2.6.3, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. URS Procedure 1.2.6.3 identifies non-exclusive list of circumstances that Examiner could consider as constituting bad faith.

Noting that the scenarios of bad faith use and registration are non-exhaustive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant's trademark would also satisfy the complainant's burden.

In a non-exhaustive manner, below circumstances surrounding the disputed domain names' registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith:

- The Respondent has simultaneously registered not less than 6 domain names which associate the well-known trademark LECLERC with the words "allianceslocal", "energi", "billeterie", "drive", "voyages" and "sequen". These associations were made on purpose as they all refer to the Complainant's trademarks and concepts and their choice cannot be a coincidence.
- The Complainant's LECLERC supermarket/hypermarket network is well-known in France and in Europe for many years. LECLERC has no meaning in French nor English, is not a dictionary or common word and is therefore highly distinctive. By registering not less than 6 domain names incorporating the Complainant's marks in one way or another, there is a strong presumption that the Respondent has registered the domain names precisely to unduly benefit from the Complainant's widely known rights and activities.

- Some of the domain names resolve to inactive pages (leclercvoyages.top; sequenleclerc.top) or pages blocked because of malicious content (leclercdrive.top; allianceslocaleclerc.top). These are deprived of any real and substantial offer of goods/services.
- Others are resolving to shopping websites in Japanese (leclercbilletterie.top; energileclerc.top), which creates strong presumption that creation of such domain names are solely to benefit from the Complainant's well-known trademark to wrongfully attract Internet users on these websites.
- Complainant sent a Cease and Desist letter and reminders to the Respondent (through the email addresses found on the active websites), that all remained unanswered.

The Respondent did not provide any formal Response with conceivable explanation of its behaviour within these proceedings.

In the light of the above, the Panel finds that the disputed domain names have been registered and are being used in bad faith pursuant URS Procedure 1.2.6.3.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): ALLIANCESLOCALLECLERC.TOP Suspends for the balance of the registration period
 ENERGILECLERC.TOP Suspends for the balance of the registration period
 LECLERCBILLETTERIE.TOP Suspends for the balance of the registration period
 LECLERCDRIVE.TOP Suspends for the balance of the registration period
 LECLERCVOYAGES.TOP Suspends for the balance of the registration period
 SEQUENLECLERC.TOP 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: Carrie
 Surname: Shang
 Date: 2021-05-15