



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

**URS DISPUTE NO. CD74D1F0**

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 Withheld For Privacy Purposes (IS)

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

Domain Name(s): LECLERCL.FUND  
Registry Operator: Binky Moon, LLC  
Registrar: Namecheap, Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 2021-06-30 16:22  
Lock of the domain name(s): 2021-07-01 17:59  
Notice of Complaint: 2021-07-01 18:19  
Default Date: 2021-07-16 00:00  
Notice of Default: 2021-07-16 10:42  
Panel Appointed: 2021-07-16 10:44  
Default Determination issued: 2021-07-16 12:00

**IV. EXAMINER**

Examiner's Name: Lars Karnøe

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:**

Being one of the largest supermarket/hypermarket French chain (www.e.leclerc), the Complainant is well known in many countries and owns a number of trademarks and domain names including the denomination "LECLERC" and notably the European Union Trademarks:

- LECLERC No 002700656, filed on May 17<sup>th</sup>, 2002 and registered on February 26<sup>th</sup>, 2004
- 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 widely uses its trademark in connection with a chain of supermarket and hypermarket stores which is well-known 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 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 asserts the following:

### 1. The disputed domain name is registered in bad faith

The disputed domain name is strongly similar to the Complainant's trademarks: it identically reproduces the trademark LECLERC with the mere addition of the final and barely noticeable letter L.

The Respondent:

- has no link of any nature with the Complainant;
- does not have legitimate interests or rights in the registration and use of the disputed domain name: the WHOIS databases details do not indicate that the Respondent's name is composed of the term LECLERC or that he is commonly known or runs a business under this name or has rights on this name;
- has not been authorized by the Complainant to use the name LECLERC.

The Complainant's LECLERC supermarket/hypermarket network is well-known in Europe for many years. The reputation of the trademark LECLERC has been recognized in many decisions issued by the WIPO Arbitration and Mediation Center. It has no meaning in French nor English, is not a dictionary or common word and is therefore highly distinctive. In view of the above, the registration of the disputed domain name cannot be a coincidence.

### 2. The disputed domain name is used in bad faith and disturbs the Complainant's business

The disputed domain name initially led to a fraudulent page (<https://daily24.com/>) which reproduced the Complainant's institutional logo and trademarks for phishing purposes. Indeed, this page was offering a 500 EUR gift card to use in the Complainant's stores against the payment of 1.95 EUR and required the contact and bank details of the internet users.

According to the above, there is no doubt that the disputed domain name was registered in bad faith:

- with the sole purpose to unduly benefit from the Complainant's widely known rights and activities;
- for fraudulent purposes, in order to trick the Complainant's consumers and the Internet users into thinking that it was operated by the Complainant and therefore obtain their personal data.



The Complainant requested the Respondent to remove the fraudulent page and the disputed domain name. However, the Respondent only deactivated the associated content and put a redirection to a Google homepage.

The disputed domain name identically reproducing the Complainant's trademark and given its past use from the Respondent, the Internet users and the Complainant's customers may believe that it is operated by the Complainant and is not working properly, which is damaging for the Complainant's image and reputation.

Finally, MX servers are still configured for the disputed domain name. Considering the past behavior and fraudulent use from the Respondent, there is a high risk that these servers are used for fraudulent purposes, namely sending emails by misusing the Complainant's identity.

#### **B. Respondent:**

The Respondent has not filed an official response within the deadline.

#### **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 Procedure 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 as below:

<leclercl.fund>: 2021-03-11

Despite 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**

To satisfy URS 1.2.6.1, a Complainant needs to prove its rights in a word mark and the domain name(s) is/are identical or confusingly similar to the word mark.

In the present case, the Examiner finds that the Complainant is a super-/hypermarket chain who also owns trademark registrations for LECLERC in different jurisdictions.

The Complainant claims that the disputed domain name is confusingly similar to the LECLERC trademark. The Examiner accepts that the additional letter “l” does not alter the underlying trademark or negate the confusing similarity and it does not sufficiently differentiate the disputed domain name from that trademark.

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

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.1 as the disputed domain name is confusingly similar to the Complainant’s registered trademarks.

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

To satisfy URS 1.2.6.2, the Complainant must first make a *prima facie* case that the Respondent lacks rights and legitimate interests in the domain name(s), and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant asserts that the Respondent has not been authorized by the Complainant to use the trademark LECLERC in the disputed domain name or the content of the website. 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 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(s) was(were) registered and is(are) being used in bad faith**

While the disputed domain name is not in active use presently, previous panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

The totality of the circumstances of a particular case has to be taken into account and the following facts of the present dispute demonstrate bad faith on the Respondent’s side:

- i. The degree of distinctiveness or reputation of the Complainant’s mark – the Complainant’s LECLERC trademark is highly distinctive and widely used.
- ii. The failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use of the disputed domain name.
- iii. The implausibility of any good faith use to which the disputed domain name may be put taking into account the distinctiveness and wide spread use of the Complainant’s trademark and
- iv. The Respondent’s failure to respond to the Complainant’s cease and desist letter.



The disputed domain name is identical to a high degree to the Complainant's trademark as the mere addition of the letter "l" in the end of LECLERCL should be disregarded in assessing the identity. As confirmed by WIPO Overview 3.0 the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (par. 3.1.4).

From the evidence available in the present dispute, it clearly appears that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's mark by fully incorporating Complainant's distinctive trademark into the disputed domain name.

This conduct is considered by the URS as a demonstration of bad faith registration and use, under Paragraph 1.2.6.3 (d) of the URS Procedure.

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: Accepted

Domain Name(s): LECLERCL.FUND Suspended for the balance of the registration period

#### C. Abuse of proceedings

Finding of abuse of proceedings: Not found

#### D. Publication

Publication: Publish the Determination

### **SIGNATURE**

Name: Lars

Surname: Karnøe

Date: 2021-07-16