

## **ADMINISTRATIVE PANEL DECISION**

Association des Centres Distributeurs E. Leclerc - ACD Lec, v. W S, WIS INC  
Case No. D2023-2315

### **1. The Parties**

The Complainant is Association des Centres Distributeurs E. Leclerc - ACD Lec, France, represented by Inlex IP Expertise, France.

The Respondent is W S, WIS INC, Cayman Islands.

### **2. The Domain Name and Registrar**

The disputed domain name <leclrec.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 29, 2023. On May 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 8, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 5, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 31, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.<sup>1</sup>.

#### **4. Factual Background**

The Complainant in this administrative proceeding is a French company, ACD Lec (Association Des Centres Distributeurs E. Leclerc). “Leclerc” refers to the last name of the founder and promoter of the company, Mr. Edouard Leclerc. The Complainant is one of the best-known chains of supermarkets and hypermarkets in France. There are 721 Leclerc stores in France and around 100 in other European countries where the Complainant runs its business. With more than 22% of the grocery market share at the beginning of 2022, the Complainant is a leading player in large-scale retail distribution in France. In 2019, the turnover of the Complainant was 48.20 billion euro in France. The Complainant employs approximately 133,000 people. Moreover, the reputation of the Complainant’s LECLERC trademarks has been recognized in numerous decisions issued by previous panels.

The Complainant is, *inter alia*, the owner of:

European Union Trademark LECLERC (word), registration number 002700656, registered on February 26, 2004; and French trademark, LECLERC (word), registration number 1307790, registered on May 2, 1985, renewal of registration number 934896 filed on October 10, 1975.

The disputed domain name was registered on February 6, 2023.

Currently the disputed domain name resolves to an inactive website, while according to the Complainant’s un rebutted assertion, the disputed domain name previously resolved to “alternative fraudulent pages by using a redirection link”.

According to the evidence provided in Annex 6 of the Complaint, the disputed domain name redirected (at least on May 23, 2023) to the website of Vente-Unique. Vente-Unique is a French company operating an e-commerce platform specialized in furniture sales, goods that are also sold by the Complainant’s network.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant claims that the disputed domain name is confusingly similar to the LECLERC trademark registrations. In this regards the Complainant affirms that the disputed domain name which reproduces almost identically the trademark LECLERC, is confusingly similar to the Complainant’s mark. The inversion of the letters “e” and “r” in the term “leclerc”, and the addition of the generic Top-Level Domain (“gTLD”) “.com”, are not sufficient to avoid a risk of confusion.

The Complainant further states that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name. No license, or authorization of any other kind, has been given by the Complainant to the Respondent to use the LECLERC trademarks.

The Complainant thus concludes that the disputed domain name has been intentionally registered and used in bad faith to attract Internet users, for commercial gain by creating a likelihood of confusion with the LECLERC trademark, such confusion encompassing the source, sponsorship, affiliation or endorsement of the website of the Respondent.

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<sup>1</sup> It has been necessary for the previously appointed Panelist to recuse himself from the case.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has established rights in the LECLERC trademark. The disputed domain name contains the Complainant's LECLERC trademark with the inversion of the letters "e" and "r", and the gTLD ".com".

The gTLD suffix is generally disregarded under the test for confusing similarity for the purposes of the Policy, and the inversion of the letter "e" and "r" to the Complainant's trademark does not prevent a finding of confusing similarity under the first element of the UDRP.

In this sense, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9 states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

Therefore, the Panel finds the disputed domain name to be confusingly similar to the LECLERC trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate non-commercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel, on the basis of the evidence presented, finds that the disputed domain name was registered and has been used in bad faith.

The Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the LECLERC trademark when it registered the disputed domain name.

In fact, the Complainant's LECLERC trademark is distinctive and renowned in France and in several European countries, and has been registered and used for many decades prior to the registration of the disputed domain name.

Furthermore, the Panel considers that the typo-squatting nature of the disputed domain name, which is almost identical to the Complainant's trademark, reflects the purposeful composition of a domain name to create a direct, misleading, inference of the Complainant, and this fact further supports a finding of bad faith. See [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1.

The Panel thus finds that the Respondent likely knew of the Complainant and its trademark and deliberately registered the disputed domain name in bad faith.

As to the use in bad faith, the disputed domain name used to redirect to "alternative fraudulent pages by using a redirection link" and to third party websites. Such use of the disputed domain name clearly demonstrates that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's LECLERC trademark.

The disputed domain name currently resolves to an inactive website, the Panel considers that bad faith may exist even in cases of so-called "passive holding", as found in the UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the circumstances of this case, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3. The Panel here considers as relevant the renown of the Complainant's trademark, the incorporation of said distinctive trademark, the Respondent's failure to participate in the proceeding, and the Respondent's previous use of the disputed domain name.

Inference of bad faith can also be found in the failure to respond to the Complainant's attempts to contact the Respondent before starting the present proceedings and to respond to the contentions therein contained, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <leclrec.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: September 15, 2023