

ADMINISTRATIVE PANEL DECISION

Association des Centres Distributeurs E. Leclerc – A.C.D. Lec. v. Name Redacted

Case No. D2023-2776

1. The Parties

The Complainant is Association des Centres Distributeurs E. Leclerc – A.C.D. Lec., France, represented by Inlex IP Expertise, France.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <multicuisseur-eleclerc.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 29, 2023. On June 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 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 (Redacted For Privacy, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 July 17, 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

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net/ Name Redacted*, WIPO Case No. [D2009-1788](#).

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 July 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 10, 2023. The Complainant submitted a supplemental filing on July 27, 2023, regarding identity theft.

The Center appointed Elise Dufour as the sole panelist in this matter on August 21, 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.

4. Factual Background

The Complainant is the French association “Association des Centres Distributeurs E. LECLERC (A.C.D. Lec)”, a well-known chain of supermarkets and hypermarkets stores. “E Leclerc” refers to the last name of the founder of the chain, Mr. Edouard Leclerc.

The Complainant owns several trademark registrations composed of the term “e leclerc”, among which:

- the European Union Trademark E LECLERC No. 002700664 filed on May 17, 2002 and registered on January 31, 2005
- the European Union figurative Trademark E. LECLERC No. 011440807 filed on December 5, 2012 and registered on May 27, 2013.

The disputed domain name was registered on April 5, 2023.

At the time of the decision, the disputed domain name does not resolve to an active page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that (i) the disputed domain name is confusingly similar to the Complainant’s trademarks; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the Respondent registered and is using the disputed domain name in bad faith.

(i) For the Complainant, the disputed domain name is confusingly similar to the trademark E LECLERC as it incorporates its trademark. The Complainant also contends that the addition of the term “multicuisineur”, which means “multi-cooker” or “pressure cooker” in English, accentuates the likelihood of confusion between the disputed domain name and the Complainant’s trademark, inasmuch “multicuisineur” relates to one of the Complainant’s activities. The Complainant stresses that the term “leclerc” is highly distinctive, as it has no meaning in French or in English and refers to the founder and promoter of the association, Mr. Edouard Leclerc. Finally, the mere addition of a generic Top-Level Domain (“gTLD”) “.com” is not sufficient to distinguish the Complainant’s trademark from the disputed domain name.

(ii) The Respondent is an individual using the Complainant’s trademark E LECLERC without license or authorization and not having any business relations with the Complainant. The Respondent is not commonly known under “leclerc”. Further, the Complainant asserts that the Respondent is impersonating the identity of a manager in one of the Complainant’s store. For the Complainant, there is hence an identity theft. Finally, the Complainant notes that the disputed domain name directs to an inactive website and was

registered under anonymity which is commonly considered as a lack of rights or legitimate interests by previous panels.

(iii) Due to the strong reputation and well-known character of the trademark E LECLERC, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademark at the time the disputed domain name was registered. The Complainant also claims that the Respondent's use of the disputed domain name constitutes bad faith use. The Complainant stresses that the disputed domain name is inactive. Passive holding demonstrates the Respondent's bad faith taking into account the fact that the disputed domain name disrupts the Complainant's business and causes harm to the Complainant's brand image. The Complainant also notes that the registrant of the disputed domain name is hiding its identity behind a privacy service and failed to respond to the Complainant's communications. In addition, the Respondent impersonated the identity of one of the Complainant's employees. In that respect, the Complainant claims that impersonating third parties' identity indicates that the Respondent registered and used the disputed domain name in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely 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 was registered and is being used in bad faith.

The Panel will further analyse the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The disputed domain name wholly incorporates the Complainant's trademarks E LECLERC, which, as long established by previous UDRP panels, may be sufficient to determine that a disputed domain name is identical or confusingly similar to the Complainant's trademarks.

The addition of the term "multicuisineur", which means "multi-cooker" or "pressure cooker" in English, and relates to the Complainant's activities, does not prevent confusing similarity (see section 1.7, [WIPO Overview 3.0](#)).

Finally, the applicable gTLD ".com" in the disputed domain name is considered a standard technical registration requirement and, as such, is generally disregarded under the first element confusing similarity test (see section 1.11, [WIPO Overview 3.0](#)).

Thus, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

The Panel hence finds that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name: the Respondent is not commonly known under the disputed domain name, nor owns any registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way.

The inactive holding of the disputed domain name in these circumstances is not a legitimate noncommercial or fair use within paragraph 4(c)(iii) of the Policy. There is no contrary evidence from the Respondent showing that it is making use of or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services within paragraph 4(c)(i) of the Policy.

Moreover, the Complainant has adduced evidence to show that the registration of the disputed domain name has been made by using third party contact details.

Given such evidence and the absence of contrary evidence from the Respondent, the Panel considers that it is not possible for the Respondent to establish that it has rights or legitimate interests in the disputed domain name.

The Panel therefore finds, noting the Complainant's *prima facie* arguments and the absence of a response, that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Given the strong reputation of the Complainant's E LECLERC trademarks, the Panel considers that the Respondent knew or should have known of said trademarks at the time of the registration of the disputed domain name. Noting the circumstances of the case, such knowledge is sufficient to establish that the disputed domain name was registered in bad faith.

Moreover, the fact that the Respondent used the name of a manager of one of the Complainant's stores is a clear indication that the Respondent had the Complainant's trademarks in mind when it registered the disputed domain name.

Furthermore, the Panel finds that the Respondent's efforts to conceal its identity through the use of a Whois privacy service can be construed as further evidence that the disputed domain name was registered in bad faith. Similarly, the Respondent combined the Complainant's trademarks with the term "multicuisseur", reinforcing the impression that the Respondent sought to specifically target the Complainant.

Therefore, the Panel concludes that the Respondent was aware of the Complainant's prior rights when it registered the disputed domain name.

With respect to the use of the disputed domain name, the passive holding of the domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

In the present case, the following facts have been found to demonstrate that the passive holding is evidence of bad faith:

- The Complainant's prior mark enjoys reputation;

- The Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use;
- The Respondent is concealing its identity; and
- The implausibility of any good faith use to which the disputed domain name may be put.

In light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate under the Policy.

In these circumstances the Panel finds that the disputed domain name was registered and is being used in bad faith within 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 <multicuisseur-eleclerc.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: September 4, 2023