

ADMINISTRATIVE PANEL DECISION

Association des Centres Distributeurs E. Leclerc – A.C.D. Lec. v. Djoel Primus
Case No. D2023-3358

1. The Parties

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

The Respondent is Djoel Primus, United States of America.

2. The Domain Name and Registrar

The disputed domain name <locationleclerc.pro> is registered with URL Solutions, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 4, 2023. On August 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 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, GLOBAL DOMAIN PRIVACY SERVICES INC, and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 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 August 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 August 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 31, 2023.

The Center appointed George R. F. Souter as the sole panelist in this matter on September 11, 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 operates supermarkets and hypermarkets under the trademark LECLERC, including 721 stores in France, and is active in several other European countries.

For several years, the Complainant has operated a rental service under the denomination "Location E Leclerc", in relation to utility vehicles, sports equipment, DIY machines, gardening machines and kitchen machines, etc.

The Complainant is the proprietor of a number of registrations of its trademark LECLERC, including French registration number 1307790, registered on May 2, 1985, and European Union registration number 002700656, registered on February 26, 2004.

The disputed domain name was registered on April 10, 2023, and resolves to a page with no content.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its LECLERC trademark, containing the LECLERC trademark in its entirety, with the mere addition of the word "location."

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that the Respondent is not generally known by the disputed domain name, and that the Complainant has never granted permission to the Respondent to use its LECLERC trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Confusing Similarity

The Panel finds that the Complainant has rights to the trademark LECLERC for the purposes of this proceeding.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name. The Panel finds that the ".pro" gTLD may be disregarded in the circumstances of the present case.

The Complainant's LECLERC trademark is clearly recognizable in the disputed domain name, rendering the disputed domain name confusingly similar to the Complainant's trademark. The addition of the term "location", which is the French word for "rental", to the trademark LECLERC, does not detract from this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain name.

B. Rights or Legitimate Interests

The Panel considers that the Complainant's allegations are sufficient to provide a *prima facie* case under this heading.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by a complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the disputed domain name.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

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

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that the Respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The addition of the term "location", which is the French word for "rental", to the trademark LECLERC clearly shows that the Respondent was aware of the Complainant's trademark and the related business activities. The circumstances of the present case, in which the Panel regards it as self-evident that the Complainant's LECLERC trademark was deliberately appropriated in the disputed domain name, are such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain name and so finds.

Since the decision in *Telstra Corporation v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), it has become well-established in subsequent decisions that non-use of a disputed domain name does not prevent the finding of bad faith. The circumstances of the present case are such that implied affiliation with the Complainant would automatically arise with any use of the disputed domain name. In these circumstances, the Panel considers that a finding of bad faith is appropriate, and so finds.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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, <locationleclerc.pro>, be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: September 25, 2023