

ADMINISTRATIVE PANEL DECISION

Association des Centres Distributeurs E. Leclerc, A.C.D. Lec v. Evee
Nnomowoo
Case No. D2024-1873

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 Evee Nnomowoo, France.

2. The Domain Name and Registrar

The disputed domain name <bellerivedis-leclerc.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 3, 2024. On May 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 2024, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 6, 2024, 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 May 10, 2024.

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 May 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 7, 2024.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on June 13, 2024. 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 a large supermarket chain headquartered in France.

The Complainant is the owner of several trade marks for LECLERC, including the following:

- European Union Trade Mark LECLERC No. 002700656, registered on February 26, 2004.

“Bellerivedis” corresponds to the company name of an entity belonging to the Complainant operating a supermarket in Bellerive-sur-Allier (France).

The disputed domain name was registered on January 29, 2024. The disputed domain name redirected to the Complainant’s website at “www.e.leclerc”. At the time of the decision, the disputed domain name was inactive.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the LECLERC trade mark in which the Complainant has rights. The Complainant highlights that the disputed domain name incorporates the entire LECLERC trade mark and that the addition of the name “bellerivedis” which corresponds to the name of a company owned by the Complainant does not lessen the likelihood of confusion between the disputed domain name and the Complainant’s trade mark.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that the Respondent is not commonly known by the disputed domain name. The Complainant contends that it has not authorized or licensed the Respondent to use any of its trade marks or to apply for or use any domain name incorporating the Complainant’s trade mark. The Complainant also points to the use of the disputed domain name to redirect to the Complainant’s official website “www.e.leclerc”, with no authorization from the Complainant to conclude that this cannot be considered as use in connection with a bona fide offering of goods or/and services or a legitimate noncommercial fair use.

The Complainant contends that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s trade mark and the Respondent could not have ignored the reputation of the Complainant’s trade mark LECLERC as it is well-known. The Complainant also contends that this is further evidenced by the fact that the disputed domain name also includes the name “bellerivedis” which corresponds to a company owned by the Complainant and one of the Complainant’s supermarkets. The Complainant alleges that the Respondent is using the disputed domain name in bad faith. The Complainant points to the use of the disputed domain name to redirect to the Complainant’s official website “www.e.leclerc”, with no authorization from the Complainant to conclude that this is an attempt on the part of the Respondent to misleadingly suggest an affiliation with the Complainant. The Complainant also points to the fact that MX servers have been set up for the disputed domain name and that there is a risk that the disputed domain name could be used to facilitate fraudulent activities such as phishing. The Complainant adds that this could disrupt the Complainant’s business and cause harm to the Complainant’s image.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the LECLERC trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "bellerivedis", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Complainant has stated that it does not know the Respondent and that it has not licensed or otherwise authorised the Respondent to make any use of its trade mark LECLERC.

There is no indication that the Respondent is commonly known by the disputed domain name.

The use of the disputed domain name to redirect to the Complainant's official website "www.e.leclerc", with no authorization can only serve to increase confusion that the disputed domain name is somehow affiliated with or authorized by the Complainant and is therefore misleading and cannot be considered bona fide, legitimate or fair.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trade mark in its entirety in combination with an additional term also referring to a company and supermarket location of the Complainant, carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name reproduces the exact LECLERC trade mark of the Complainant and this cannot be a coincidence given the overall circumstances of the present case including (i) the renown of the Complainant's LECLERC trade mark, as substantiated by the Complainant and acknowledged by several previous UDRP panels, (ii) the fact that the Respondent appears to be based in France where the Complainant is headquartered and where its renown is higher than anywhere else, (iii) the fact that the disputed domain name was registered relatively recently and many years after the registration of the trade mark LECLERC, (iv) the targeted choice of term added to the LECLERC trade mark in the disputed domain name which corresponds to a company owned by the Complainant and one of the Complainant's supermarkets and (v) the fact that the Respondent used a postal address highly similar to another supermarket of the Complainant. Thus, the Panel finds that the disputed domain name was registered in bad faith.

As for use of the disputed domain name in bad faith, given the circumstances described in the Complaint, the evidence provided by the Complainant, the Panel considers that the disputed domain name is used in bad faith.

The use of the disputed domain name to redirect to the Complainant's official website "www.e.leclerc", with no authorization can only serve to increase confusion that the disputed domain name is somehow affiliated with or authorized by the Complainant (See *PayPal Inc. v. Jon Shanks*, WIPO Case No. [D2014-0888](#) and *AXA S.A., AXA Investment Managers S.A. v. Domains By Proxy, Inc. / Adam Long*, WIPO Case No. [D2009-0452](#)). This circumstance, along with the DNS setup of the disputed domain name (with active MX records) and the composition of the disputed domain name, lead the Panel to consider that the disputed domain name could be used to deceive Internet users. In these circumstances, the disputed domain name constitutes a potential threat hanging over the head of the Complainant especially in light of the fact that fraudulent use of domain names and emails is particularly prevalent in relation to online shopping.

The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view that the disputed domain name is used in bad faith.

The Panel finds that the Complainant has established the third element 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 <bellerivedis-leclerc.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: June 27, 2024