

ADMINISTRATIVE PANEL DECISION

Association des Centres Distributeurs E. Leclerc, A.C.D. Lec v. huet olivier,
leclerc

Case No. D2024-2174

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 huet olivier, leclerc, France.

2. The Domain Name and Registrar

The disputed domain name <galec-leclerc.net> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 28, 2024. On May 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 29, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 29, 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 June 3, 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 June 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2024. On June 10, 2024, the Center received a Third Party communication indicating “I am not part of this case, however I run a company that has been

approached by someone using the galec-leclerc.net domain claiming to be from E.Leclerc trying to scam me. I thought it would be relevant to this open case.”]

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on July 2, 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 French association, ACD Lec (ASSOCIATION DES CENTRES DISTRIBUTEURS E. LECLERC). Leclerc refers to the last name of the founder and promoter of the association – Mr. Edouard LECLERC.

LECLERC is a renowned supermarkets and hypermarkets stores in France. The Complainant has about 735 stores in France, located all over the country.

The Complainant owns several LECLERC trademarks:

- the European Union trademark LECLERC No. 002700656 dated May 17, 2002, and duly renewed;
- the French trademark LECLERC No. 1307790 dated May 2, 1985 and duly renewed.

Additionally, the French company SOCIETE COOPERATIVE GROUPEMENTS D'ACHATS DES CENTRES LECLERC, which the registered acronym is SG GALEC, is one of the three pillars of the LECLERC organization, alongside the Complainant, and is in charge of negotiation of the commercial terms and conditions of the LECLERC's suppliers.

SC GALEC is the owner of the French trademark  No. 3644736, dated September 18, 2009, duly renewed.

The Complainant came across the registration of the domain name <galecleclerc.net> on April 7, 2024. The disputed domain name points to an inactive page and MX servers are configured.

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 Complainant's LECLERC trademark. Indeed, the domain name reproduces in its entirety the Complainant's LECLERC trademark. The addition of the name "GALEC" does not prevent any likelihood of confusion between the disputed domain name and the Complainant's as it corresponds to the official and registered acronym of the SC GALEC company.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the domain name. The Respondent is not known under the name "LECLERC" or "GALEC". The Respondent has never been authorized by the Complainant to use the name "LECLERC". Finally, the Respondent never used the domain name in connection with a bona fide offering of goods or/and services nor constitutes a legitimate non-commercial fair use. Indeed, the domain name points to an inactive page and MX servers are configured.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant proves that the LECLERC trademark has been recognized in numerous UDRP decisions.

Furthermore, the “LECLERC” and “GALEC” names are not a dictionary or common word. Finally, the Respondent concealment of its identity is also indicative of bad faith. Therefore, it seems unlikely and implausible that the Respondent was unaware of the activities and existence of the Complainant or its trademarks at the time the registration of the disputed domain name was made.

Additionally, the disputed domain name points to an inactive page. Such uses are deprived of any real and substantial offer of goods and/or services. Since the disputed domain name incorporates in the identical way the Complainant’s trademarks, Internet users and especially the Complainant’s customers and suppliers may wrongly believe that the website to which it resolves are the Complainant’s site or that the Complainant’s website is not correctly functioning or has been hacked. Besides, the existence of MX servers may suggest that the Respondent is engaged in phishing scheme aiming to send fraudulent emails to the internet users.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules directs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable”.

The UDRP provides, at paragraph 4(a), that each of three findings must be made in order for the Complainant to prevail:

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

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 trademark 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 trademark 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “GALEC” 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 notes that this term corresponds to the official and registered acronym of the SC GALEC company, one of the three pillars of the LECLERC organization, alongside the Complainant, in charge of negotiation of the commercial terms and conditions of the LECLERC’s suppliers.

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.

There is also no evidence indicating that the Respondent has made any demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services. Instead, MX servers are set up on the disputed domain name and the email received from the third party on June 10, 2024 disclosing the scam is evidence that the disputed domain name appears to be used primarily for the purpose of impersonating the Complainant by sending phishing emails to the Complainant’s clients with the aim to mislead recipients of its emails into providing confidential information.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 given the trademark’s distinctiveness, renown, and the composition of the disputed domain name, the Respondent was likely aware of the Complainant’s trademark rights at the time of registration. Such awareness is indicative of bad faith registration as per established UDRP precedents.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, as demonstrated above, the use of the disputed domain name appears to be primarily for the purpose of impersonating the Complainant by sending phishing emails with the aim to mislead recipients of its emails into providing confidential information.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <galec-leclerc.net> be transferred to the Complainant.

/Nathalie Dreyfus/

Nathalie Dreyfus

Sole Panelist

Date: July 15th, 2024