

ADMINISTRATIVE PANEL DECISION

Association des Centres Distributeurs E. Leclerc - A.C.D. Lec v. Sophie,
Sophie
Case No. D2024-4453

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 Sophie, Sophie, United States of America.

2. The Domain Name and Registrar

The disputed domain name <eleclerc-shop.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 30, 2024. On October 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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 November 4, 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 November 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December

4, 2024.

The Center appointed Haig Oghigian as the sole panelist in this matter on December 9, 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 ACD Lec E. Leclerc, a French cooperative of retailers and hypermarkets with over 750 stores in France and 85 more globally, notably in Poland, Luxembourg, Spain and Portugal.

The Complainant's common trading name, E. Leclerc, refers to Mr. Edouard Leclerc, the founder and promoter of the association.

The Complainant owns numerous trademark registrations for E. Leclerc, such as but not limited to:

Jurisdiction	Mark	No.	Registration Date
European Union	E LECLERC	002700664	January 31, 2005
European Union	E LECLERC (figurative)	011440807	May 27, 2013

The Complainant operates its website at "www.e.leclerc" and others including but not limited to "www.leclercdrive.fr".

The disputed domain name is <eleclerc-shop.com> and was registered on September 29, 2024.

At the time the Complainant became aware of the disputed domain name, it resolved to a page presenting an investment platform using the name "E. Leclerc". The disputed domain name now resolves to an inactive page.

The Respondent is Sophie from the United States of America. The Respondent's organization is also listed as "Sophie", and its listed phone number appears to be from Thailand.

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 identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns numerous trademark registrations for E LECLERC in the European Union, all of which were filed before the registration of the disputed domain name. The Complainant contends that given the renown of E. Leclerc as supermarket and hypermarket chain with over 750 stores across France, both metropolitan and overseas, along with a number of stores in other European countries, the Respondent should be aware of the Complainant and their marks. The Complainant further states that the term "E. Leclerc" has no meaning in French or English

and is highly distinctive beyond its use by the Complainant.

The Complainant states that the disputed domain name identically reproduces to the Complainant's trademark E LECLERC with the addition of the generic term "shop", which increases the likelihood of confusion as it directly refers to the activities of the Complainant, i.e. a chain of supermarket and hypermarkets shops/stores which also has online shops such as <www.leclercdrive.fr>, which is also owned by the Complainant. Therefore, Internet users and especially the Complainant's customers may wrongfully believe that the website associated with the disputed domain name is one of the Complainant's official websites.

The Complainant argues that as the disputed domain name identically reproduces the Complainant's trademark E LECLERC, it should be considered identical or confusingly similar, and that the existence of a likelihood of confusion, when disputed domain names include associated trademarks with the generic term "shop", has been recognized by WIPO panels in cases such as *Carrefour SA v. Hubert Convery*, WIPO Case No. [D2022-1211](#) and *Instagram, LLC v. saleh alfadaghi*, WIPO Case No. [D2021-2701](#).

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

Given that the disputed domain name was registered well after the Complainant's trademarks listed in the Factual Background section, and that there is no evidence that the Respondent is commonly known by the disputed domain name or owns any registered trademarks including the terms "leclerc-shop.com". The Complainant further asserts that at no point has the Respondent been licensed to use its marks, nor are they affiliated with the Complainant. There is no evidence of any actual or contemplated good faith use of the disputed domain name.

Furthermore, the Complainant contends that the disputed domain name initially led to a fraudulent page presenting an investment platform under the name E. Leclerc and therefore misusing the Complainant's E. LECLERC trademarks and identity to give the impression that the website is operated by the Complainant, which was then used to illegally collect the personal data of Internet users via creation of an account and/or payment with credit cards.

The disputed domain name was registered and used in bad faith.

The Complainant states that the registration of the Complainant's trademarks predates the registration of the disputed domain name and the Respondent has never been authorized by the Complainant to use the E. LECLERC trademark nor to register the disputed domain name. Nonetheless, the Respondent has chosen to use the distinctive trademark E. LECLERC in the disputed domain name in its entirety. The Complainant further states that given the Complainant's prolific business in France and how distinct the term "E Leclerc" is, the Respondent should have aware of the Complainant and its mark and the registration of the disputed domain name could not have been done by coincidence. Furthermore, the Complainant argues that the disputed domain name was used in bad faith, as when active the disputed domain name resolved to a website that reproduced, without authorization, many of the Complainant's marks, including but not limited to "E Leclerc". The Complainant states therefore that this site, which was operated by the Respondent, was intentionally using the Complainant's marks to potential consumers by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation so that those consumers might provide the Respondent with personal information such as names, addresses and credit card numbers. The Complainant concludes that therefore the disputed domain name disrupts the Complainant's business and cause harm to the Complainant's brand 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 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 "shop", 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.

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

When the domain name consists of a trademark plus an additional term (here "shop"), UDRP panels have largely held that such composition cannot constitute fair use if it effectively suggests sponsorship or endorsement by the trademark owner. [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 Respondent acted in bad faith given that the mark is reproduced in the disputed domain name in its entirety along with the term “shop”, which creates a likelihood of confusion with the Complainant’s mark.

The disputed domain name <eleclerc-shop.com> resolved, at the time the Complaint, to an active site featuring multiple unauthorized instances of the Complainant's marks, with the intention to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark. The Panel finds that such use of the disputed domain name constitutes bad faith in accordance with paragraph 4(b)(iv) of the Policy.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, impersonation for the purpose of collecting personal information, 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 <eleclerc-shop.com> be transferred to the Complainant.

/Haig Oghigian/

Haig Oghigian

Sole Panelist

Date: December 21, 2024