

## ADMINISTRATIVE PANEL DECISION

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

Case No. D2024-4458

### 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 Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <orlydistributions-leclerc.com> is registered with NameCheap, Inc. (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 30, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) 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.

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<sup>1</sup>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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

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 6, 2024.

The Center appointed William Lobelson as the sole panelist in this matter on December 10, 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 Association des Centres Distributeurs E. Leclerc – A.C.D. Lec, and runs a nationwide chain of supermarkets in France.

The Complainant owns trademark rights in the name “Leclerc”, such as:

- European Union Trademark LECLERC Registration No. 002700656 filed on May 17, 2002 and registered on February 26, 2004, and duly renewed since then;
- French trademark LECLERC Registration No. 1307790 filed and registered on May 2, 1985, and duly renewed since then.

Among the Complainant’s affiliated companies is a French corporation named ORLY DISTRIBUTION, that exploits a supermarket E LECLERC in France.

The disputed domain name <orlydistributions-leclerc.com> was registered on September 5, 2024. It resolves to a Pay-Per-Click (“PPC”) page featuring links related to the Complainant’s core business as well as links directing to the Complainant’s competitors, and Mail Exchange (MX) servers were set up.

After disclosure of the Respondent’s details, it was found that the latter used the patronymic name of the President of ORLY DISTRIBUTION, the address thereof and the company name ORLY DISTRIB.

#### **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 its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

Notwithstanding the lack of formal response, it remains incumbent on the Complainant to make out its case in all respects under the rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

### 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 Complainant is the owner of trademark registrations for LECLERC.

The disputed domain name reproduces the Complainant's trademark LECLERC.

Although the addition of other terms, here "orlydistributions-" may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 the name "orlydistributions" is almost identical to the corporate name of a company that is affiliated with the Complainant, namely ORLY DISTRIBUTION.

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

An earlier UDRP decision has acknowledged that a similar disputed domain name <orlydistribution-leclerc.com> was confusingly similar with the Complainant's trademark (WIPO Case No. [D2024-3013](#)).

Consequently, the disputed domain name is confusingly similar to the Complainant's trademark, and the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

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 made a prima facie showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant contends that the Respondent is not commonly known under the disputed domain name and does not make any bona fide or legitimate noncommercial use of the same, being emphasized that the disputed domain name resolves towards a parking page with PPC links, on which the brand name “orlydistributions-leclerc” is not used in relation with any genuine and bona fide offer of goods or services.

Based on the available record, 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.

The Complainant has substantiated the fact that its trademark LECLERC, which has been registered and used in France for years, now benefits from a high level of public awareness. Earlier UDRP decisions have acknowledged the Complainant’s trademarks reputation.

It also transpires from the documents filed in support of the Complaint that when the identity of the Respondent was eventually disclosed by the Registrar, it was revealed that the Respondent had used “ORLY DISTRIB” as a company name, which is almost identical to the company name of one of the Complainant’s affiliates, i.e.: Orly Distribution, as well as the same address as the latter, and the name of an individual who happens to be the President of the aforesaid company Orly Distribution.

The Complainant contends that the disputed domain name has not been in fact registered by its affiliate Orly Distribution or the President thereof.

The Panel has no reason to question the accuracy of the Complainant’s assertion that the Respondent used false information to register the disputed domain name.

This is to be regarded as a fraudulent impersonation of the Complainant or its affiliate, as well as an attempt to justify the illegitimate registration of the disputed domain name.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant’s rights in mind when it registered the disputed domain name.

Regarding the high similarity of the disputed domain name with the Complainant's trademark LECLERC and the company name of its affiliate ORLYDISTRIBUTION, it is highly unlikely that the disputed domain name could have been registered and then used in good faith.

The Panel also notes that the Respondent did not reply to the Complaint.

The Panel infers from the above that the Respondent acted in bad faith when he registered the disputed domain name, and still acts in bad faith.

It is further noted by the Panel that the disputed domain name is routed towards a parking page with PPC links, including links offering competing services, on which the name "orlydistributions-leclerc" is not used in relation with any genuine and bona fide offer of goods or services. See *Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe*, WIPO Case No. [D2007-1695](#) ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.").

Further, the Complainant has filed evidence showing that the Respondent had set up MX servers in relation with the disputed domain name, thus revealing a possible intention to use the same as an email address.

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 <orlydistributions-leclerc.com> be transferred to the Complainant.

*/William Lobelson/*

**William Lobelson**

Sole Panelist

Date: December 20, 2024