

## **ADMINISTRATIVE PANEL DECISION**

Société Coopérative Groupements d'Achats des Centres Leclerc, SC GALEC  
v. Privacy service provided by Withheld for Privacy ehf / claver leclerc  
Case No. D2022-2231

### **1. The Parties**

Complainant is Société Coopérative Groupements d'Achats des Centres Leclerc, SC GALEC, France, represented by Inlex IP Expertise, France.

Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / claver leclerc, Côte d'Ivoire.

### **2. The Domain Names and Registrar**

The disputed domain names <galec.shop> and <galec.xyz> are registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 20, 2022. On June 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 20, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on June 21, 2022, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 22, 2022.

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 Respondent of the Complaint, and the proceedings commenced on June 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 18, 2022.

The Center appointed Jeffrey M. Samuels as the sole panelist in this matter on July 29, 2022. 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**

Created in 1964, Complainant Societe Cooperataive Groupements D'Achats Des Centres LeClerc (SC GALEC but commonly referred to as GALEC) is part of the group E. LECLERC, which is a French hypermarket and supermarket chain. The E. LECLERC network consists of more than 720 supermarkets/hypermarkets in France and nearly 100 stores abroad. In 2019, Complainant's revenue was EUR 48.20 billion.

Complainant owns French Trademark Registration No. 3644736 for the mark GALEC and Design, which issued in 2009, and is still in effect. It also owns several domain names that include the term "galec," including <galec.net>, <galec.fr>, <galec.info> and <galec.eu>.

The disputed domain names, <galec.shop> and <galec.xyz>, were registered on March 22, 2022, and March 23, 2022, respectively.<sup>1</sup> The domain name <galec.xyz> points to a parking page of the registrar Namecheap with commercial links related to Complainant's field of activity. The domain name <galec.shop> leads to an inactive page.

On April 28, 2022, Complainant's counsel sent emails to the attention of the registrant of the disputed domain names requesting "more information why you have applied for the registration of the [disputed] domain name[s]." Follow-up reminders were sent on May 5 and 12, 2022. No reply was received.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant asserts that each of the disputed domain names is confusingly similar to the GALEC trademark. It points out that the disputed domain names incorporate the mark in full and that the top-level domains ".shop" and ".xyz" should not be considered as they are compulsory elements of the disputed domain names.

Complainant further contends that Respondent has no rights or legitimate interests in either of the disputed domain names. It notes that the content of the associated websites, as well as the WHOIS database, do not indicate that Respondent is commonly known by either of the disputed domain names in dispute or that Respondent has any rights, including trademark rights, in the term GALEC.

Complainant argues that the disputed domain names are neither used in connection with a *bona fide* offering of goods and/or services nor constitutes a legitimate noncommercial or fair use. In this regard, Complainant emphasizes that the domain name <galec.shop> resolves to an inactive, or passive, site and that the domain name <galec.xyz> resolves to a parking page with commercial links related to Complainant's field of activity.

Finally, Complainant indicates that it has not authorized, licensed, or permitted Respondent to use any of Complainant's trademarks or to apply for or use any domain name incorporating the GALEC trademark. There is no business relationship between the parties, Complainant adds.

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<sup>1</sup> The Panel concludes, pursuant to paragraph 10(e) of the UDRP Rules, that consolidation of the domain names in dispute is proper since the case file supports a determination that the domain names are subject to common control and consolidation would be procedurally efficient, fair, and equitable to the parties.

With respect to the issue of bad faith registration and use, Complainant contends that it is unlikely Respondent was unaware of Complainant and of its GALEC trademark at the time the disputed domain names were registered, given that Complainant is well-known in France and in other European Union countries. Complainant points out that GALEC has no meaning in French or English and that Respondent's name includes the sign LeClerc, which directly refers to the group E. LECLERC, of which Complainant is part. According to Complainant, "[t]he registration of the disputed domain names that reproduce the Complainant's name and trademarks GALEC, by a person whose alleged name is LECLERC cannot be a coincidence but clearly shows that the disputed domain names have been registered in bad faith."

Complainant also points out that the disputed domain name registrations were made anonymously with a privacy/proxy registration service and contends that Respondent's concealment of its identity is indicative of bad faith.

Complainant further notes that MX servers are set up on the disputed domain names and that the existence of such servers leads it to believe that Respondent could use the servers for phishing purposes by sending fraudulent emails. The fact that Respondent's surname is LeClerc increases the impression that such emails would be considered legitimate, Complainant asserts.

Complainant directs the Panel to the fact that the <galec.xyz domain name resolves to a parking page with commercial links to Complainant's field of activity as further support for a determination of bad faith use.

"Since the disputed domain names incorporate in the identical way the Complainant's trademark, which is also its company name, the Internet Users and especially the Complainant's customers may wrongly believe that the websites to which they resolve are the Complainant's websites or that the Complainant's websites are not correctly functioning or have been hacked," Complainant declares.

## **B. Respondent**

The Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Panel concludes that Complainant has rights in the GALEC mark. The case file indicates that Complainant is the owner of a French registration for the mark and has done business under the GALEC name for over 50 years.

The Panel concludes that each of the disputed domain names is confusingly similar to the GALEC mark. Each of the domain names incorporates in full the GALEC mark, adding only generic top-level domains.

### **B. Rights or Legitimate Interests**

The Panel finds that Respondent has no rights or legitimate interests in either of the disputed domain names.

The case file establishes that the <galec.shop> domain name leads to an inactive page. There being no use of the disputed domain name, it cannot be held that the domain name is being used in connection with a *bona fide* offering of goods or services or that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. There also is no evidence that Respondent is commonly known by the disputed domain name <galec.shop> or that Respondent has been authorized or licensed to use the domain name.

With respect to the <galec.xyz domain name, the case file indicates that the disputed domain name resolves to a parking page with commercial links related to Complainant's field of business. Such use does not

qualify as use of a domain name in connection with a *bona fide* offering of goods or services. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 2.9 and cases cited therein.

### **C. Registered and Used in Bad Faith**

The Panel concludes that the disputed domain names were registered and are being used in bad faith.

The Panel finds that Complainant has done business under the SC GALEC or GALEC name since 1964, over 50 years prior to registration of the disputed domain names, that Complainant registered the GALEC mark in France in 2019, and that Complainant enjoys a great reputation in France and other European countries. While Respondent is apparently a resident of the Ivory Coast, the Panel takes notice of the fact that Ivory Coast has a French-colonial legacy and that Respondent's surname, LeClerc, is the same as the name of the group of which Complainant is part. Under such circumstances it is reasonable for the Panel to conclude that Respondent was aware of Complainant and of its GALEC mark at the time the disputed domain names were registered.

As noted in the [WIPO Overview 3.0](#), section 3.1.4, "the mere registration of a domain name that is identical or confusingly similar ... to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." Such a presumption is warranted in this case, and Respondent has presented no evidence to rebut it.

Focusing specifically on the <galec.xyz> domain name, UDRP panels have found a respondent to have registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with a complainant's mark where the respondent redirects the domain name to the website of the complainant or of complainant's competitors. Such is the case here.

With regard to the <galec.shop> domain name, UDRP panels have long found that passive use of a domain name may give rise to the requisite bad faith where the complainant's mark is distinctive and/or enjoys a high degree of reputation, the respondent has not provided any evidence of actual or contemplated good-faith use of the domain name, and the implausibility of any good faith use to which the domain name may be put. See [WIPO Overview 3.0](#), §3.3. The case file in this matter supports a determination that the GALEC mark is distinctive and enjoys a high degree of reputation; that Respondent has failed to provide any evidence of actual or contemplated good-faith use; indeed, Respondent has failed to respond to the Complaint; and given the distinctiveness and reputation enjoyed by the GALEC mark, it is difficult to contemplate how Respondent could make good faith use of either of the disputed domain names.

Respondent's failure to respond to any of Complainant's counsel's emails provides further support of the Panel's determination that the disputed domain names were registered and are being used in bad faith.

### **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 names <galec.shop> and <galec.xyz> be transferred to Complainant.

*/Jeffrey M. Samuels/*

**Jeffrey M. Samuels**

Sole Panelist

Date: August 12, 2022