

## **ADMINISTRATIVE PANEL DECISION**

Association des Centres Distributeurs E. Leclerc - A.C.D. Lec v. Fitzpatrick John, John K Fitzpatrick, Clark Clara, Clara C Clark, John Gregory, Gregory John, Hernandez Lance, Lance J Hernandez  
Case No. D2025-0258

### **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 Respondents are Fitzpatrick John, John K Fitzpatrick, Clark Clara, Clara C Clark, John Gregory, Gregory John, and Hernandez Lance, Lance J Hernandez, United States of America ("United States").

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

The disputed domain names <frleclerc.com>, <leclerc-fr.com>, <leclercfr.com> and <shop-leclerc.com> are registered with Hongkong Kouming International Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 23, 2025. On January 23, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 6, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondents are listed as the registrant and providing the contact details. The Center sent an email communication in Chinese and English to the Complainant on February 6, 2025, providing the registrant and contact information disclosed by the Registrar.

On February 6, 2025, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. The Complainant requested English to be the language of the proceeding in the Complaint. The Respondents did not submit any comment on the Complainant's submission.

The Center verified that the 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 Respondents of the Complaint, and the proceedings commenced on February 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2025. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on March 5, 2025.

The Center appointed Jacob Changjie Chen as the sole panelist in this matter on March 13, 2025. 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, founded by Mr. Edouard LECLERC, is a French association and operates supermarkets and hypermarkets stores. The Complainant has about 750 stores in France and around 100 in several other European countries such as Poland, Spain, Portugal and Slovenia.

The Complainant owns a number of LECLERC trademark registrations, notably:

- European Union Trademark Registration No. 002700656, registered on February 26, 2004, in multiple classes including class 35;
- French Trademark Registration No. 1307790, registered on May 2, 1985, in multiple classes including class 35.

The disputed domain names <frleclerc.com>, <leclerc-fr.com>, <leclercfr.com> and <shop-leclerc.com> were registered respectively on November 13, 2024, November 9, 2024, November 8, 2024, and November 9, 2024. Before the Complainant sent out the takedown notice, the disputed domain names <frleclerc.com>, <leclerc-fr.com> and <leclercfr.com> resolved to online shopping stores displaying the LECLERC trademark, while <shop-leclerc.com> resolved to online shopping store of AUCHAN which is a competitor of the Complainant.

#### **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 names.

Notably, the Complainant contends that:

- the disputed domain names shall be considered as identical to the LECLERC trademark as they identically reproduce the trademark and the addition of the letters “fr” or the English term “shop” does not lessen the inevitable confusion between the disputed domain names and the Complainant’s LECLERC trademark.
- the Respondents have no link of any nature with the Complainant, and does not seem to have legitimate interests or rights in the registration and in the use of the disputed domain names.

- the disputed domain names were registered and are being used in bad faith. It is unlikely that the Respondents were unaware of the Complainant and the LECLERC trademark at the time of registration in view of the reputation and business presence of the Complainant. The Respondents were offering same categories of goods as the Complainant and collecting banks details through the websites, which put Internet users to a risk of fraud. By registering and using the disputed domain names, the Respondents are targeting the Complainant and the LECLERC trademark and trying to benefit from its reputation with the sole aim to scam Internet users.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Language of the Proceeding**

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondents are based in the United States with English being the official language, and that the disputed domain names are comprised of Latin characters.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that:

- the disputed domain names were registered with the same Registrar within a very short time frame;
- the disputed domain names were using the same hosting service provider; and
- the disputed domain names were resolving to websites with similar contents (in particular the “About Us”).

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

### **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 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 Panel finds the LECLERC mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the terms “fr” (commonly referring to the country code of France), hyphen “-”, and “shop” 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 names 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 names. 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 names such as those enumerated in the Policy or otherwise.

The disputed domain names were reproducing either the LECLERC trademarks and logo or the Complainant's competitor's logo. The Respondent was offering same categories of goods as the Complainant and collecting banks details of consumers through the websites associated with the disputed domain names. The Panel views that such use of the disputed domain names implies a high risk of phishing or other types of fraud activities.

Panels have held that the use of a domain name for illegal activity (phishing, or other types of fraud) 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 determines that the Respondent chose the disputed domain names with knowledge of the Complainant, particularly given the selection of the terms "fr" and "shop" corresponding to the Complainant's country of origin and business. Clearly the Respondent intentionally registered the disputed domain names to exploit reputation of the Complainant and the LECLERC trademark, which indicates registration in bad faith. Moreover, the Respondent did not rebut the potential fraud activity alleged by the Complainant, in which the Respondent impersonated the Complainant (as well as another brand owner) and was collecting sensitive payment data. The Panel finds that the Respondent's use of the disputed domain names constitutes bad faith.

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 the potential phishing or other types of fraud, impersonation/passing off 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 names constitute 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 names <frleclerc.com>, <leclerc-fr.com>, <leclercfr.com> and <shop-leclerc.com> be transferred to the Complainant.

*/Jacob Changjie Chen/*  
**Jacob Changjie Chen**  
Sole Panelist  
Date: March 31, 2025