

## **ADMINISTRATIVE PANEL DECISION**

ELO v. dfsf

Case No. D2025-2035

### **1. The Parties**

The Complainant is ELO, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is dfsf, Azerbaijan.

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

The disputed domain names <auchanretailpt.top> and <auchanretail.top> are registered with Dominet (HK) Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 22, 2025. On May 22, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 2025, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 2, 2025, 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, 2025.

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, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 24, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 25, 2025.

The Center appointed Tao Sun as the sole panelist in this matter on July 9, 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, previously known as Auchan Holding SA, is a holding company that brings together three complementary companies including Auchan Retail International, which offers food and non-food products through a chain of hypermarket, convenience and supermarket stores and also through e-commerce websites and drive outlets. Auchan Retail International is a multinational retail group founded in 1960, now operates in 12 countries, across Europe and Africa. It employs over 153,965 employees and its consolidated revenue was EUR 32,3 billion in 2023. In 2022, Forbes included Auchan in the “World's Best Employers” list.

The Complainant owns, among others, the following registered trademarks:

- (i) The international registration No. 658656 A AUCHAN (Figurative mark) in international classes 1, 6, 7, 35, and 42, etc., registered on July 29, 1996;
- (ii) The European Union registration No. 000283101 AUCHAN in international classes from 1 to 42, registered on August 19, 2005; and
- (iii) The European Union registration No. 004510707 AUCHAN in international classes 35 and 38, registered on January 19, 2007.

The Complainant's primary domain name is <auchan.fr>, registered on February 11, 1997, which has received an average of 9.9 million visits between October and December 2024. Additionally, Complainant's website is ranked fourth in its category in France.

The disputed domain names were registered on May 6, 2025. According to the evidence submitted by the Complainant, the disputed domain names were resolved to the websites offering retail goods/services with the copyright statement in the name of Auchan Retail Portugal III, S.A.

#### **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:

- (i) The disputed domain names are confusingly similar to the Complainant's AUCHAN trademark. Adding terms such as “retail” and “pt”, which are closely linked and associated with the Complainant's brand and trademark, only serves to underscore and increase the confusing similarity between the disputed domain names and the Complainant's trademark.
- (ii) The Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark. The Respondent is not commonly known by the disputed domain names. The disputed domain names were resolved to the website purposely designed to deceive Internet users into believing that the disputed domain names and the website are associated with the Complainant. The disputed domain names carry a high risk of implied affiliation with the Complainant which cannot be considered a fair use of the disputed domain names.

(iii) The Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business by registering two disputed domain names that comprise the entirety of the Complainant's fanciful and internationally known trademark. The Respondent created a likelihood of confusion with Complainant and its trademarks by fully incorporating Complainant's trademark in the disputed domain names with terms closely related to its brand and business, and then attempting to profit from such confusion by falsely claiming affiliation with the Complainant's representation in Portugal and offering competing goods and services.

## **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 names. 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 disputed domain names contain the Complainant's AUCHAN mark in its entirety. The Complainant's marks can be easily recognized within the disputed domain names. Therefore, the disputed domain names should be considered confusingly similar with the Complainant's trademarks for purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of such terms such as "retail" and "pt" does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's marks 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 Complainant has asserted that it has never licensed, authorized, or permitted the Respondent to register the disputed domain

names. According to the evidence submitted by the Complainant, the disputed domain names were resolved to the websites offering retail goods/services with the copyright statement in the name of Auchan Retail Portugal III, S.A. Considering the worldwide reputation of the Complainant's AUCHAN trademark and business, such use of the disputed domain names will inevitably mislead Internet users to believe that the websites are operating by the Portugal affiliates of the Complainant and therefore does not represent a bona fide offering of goods or services.

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 Panel therefore 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 Complainant's trademarks are inherently distinctive and has become famous on retail services worldwide through extensive uses and promotions. The disputed domain names contain the entirety of the Complainant's AUCHAN trademark with the addition of terms "retail" and "pt," which, as the Complainant correctly pointed out, will increase the likelihood of the confusion among relevant Internet users because of the high reputation of the Complainant's AUCHAN trademark on retail services. Therefore, the disputed domain names are confusingly similar to the Complainant's famous marks and were registered by the Respondent who has no relationship with the Complainant, which can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Furthermore, the fact that the disputed domain names were resolved to the websites alleging to provide retail services in Portuguese can also prove that the Respondent were aware of the Complainant's famous trademark and attempted to attract Internet users to its websites by creating a likelihood of confusion with the Complainant and its trademarks. Such use undoubtedly constitutes bad faith under paragraph 4(b)(iv) of the Policy.

The facts that the Respondent failed to file any response to this Complaint also support a finding of bad faith.

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 <auchanretailpt.top> and <auchanretail.top> be transferred to the Complainant.

*/Tao Sun/*

**Tao Sun**

Sole Panelist

Date: July 22, 2025