



THE BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

## DECISION OF THE THIRD-PARTY DECIDER

**Complainant / Domain name holder**

**Case no. 444100 / e-leclerc.be**

### 1. The Parties

1.1. Complainant: Association des Centres Distributeurs E. Lerclerc – A.C.D. Lec.  
26 Quai Marcel Boyer, 94200 Ivry-sur-Seine, France

*Represented by:*

INLEX IP EXPERTISE  
Ms. Deborah Fage  
5 rue Feydeau, 75002 Paris, France

1.2. Domain name holder: Cui Long  
Tiaoxi Jiayan 3-502, 313000, Huzhou, China

*Represented by:*

### 2. Domain name

Domain name: e-leclerc.be  
Registered on: September 24<sup>th</sup>, 2019

*Hereafter referred to as "the Domain Name".*

### 3. Procedure

On 17 April 2020, Complainant filed a complaint with CEPANI requesting that the Domain Name be transferred in accordance with the Cepani Rules for Domain Name Dispute Resolution (the "Rules") and the DNS.be dispute resolution policy (article 10 of the DNS.be terms and conditions for domain names holders, hereinafter the "Policy").

On 18 May 2020, in accordance with article 7.2 of the Rules, CEPANI appointed the undersigned as Third-party decider in the above referenced matter.

On 25 May 2020, the deliberations were closed pursuant to article 13 of the Rules. The Domain Name holder did not file any observation nor answered in any way to the complaint.

The language of the procedure is English, in accordance with the Policy.

#### 4. Factual Background information

Complainant presents itself as a French association operating supermarkets in France and in several other European countries under the brand "E LECLERC". Complainant boasts of being the first European organization of independent storekeepers, having opened its first store in France some 70 years ago, with more than 700 stores active in France and around 100 stores in other countries nowadays, employing some 133,000 people and holding some 20% market share.

Complainant is the holder of several trademark registrations, of which the following ones are protected in the Benelux countries:

- EUTM 002700664 for the word mark "E LECLERC", registered with effect on 17 May 2002, in classes 1-45;
- EUTM 011440807 for the figurative mark "E.Leclerc", registered with effect on 5 December 2012 in classes 1-45;
- International registration for the figurative mark "E.Leclerc", registered with effect on 28 June 1993 and covering, a.o., the Benelux in classes 1-42.

The record shows the following, which is relevant for the decision in this matter:

- 1) The Domain Name was registered on 24 September 2019 on an anonymous basis. Upon Complainant's request, DNS.be provided the contact details of the Domain Name holder, including the email address [wuloudemao@gmail.com](mailto:wuloudemao@gmail.com).
- 2) On 18 December 2019, from that email address, the Domain Name holder, presenting himself as "Cui Long", sent an email to Complainant to offer the Domain Name for sale at a price of € 2,000, indicating the URL to be used for the purchase (through the services of Sedo.com) and promoting the so-called "benefits of owning this domain" (see Exhibit 6 to the Complaint).
- 3) The Domain Name appears to be used to direct to a parking page hosted by Sedo.com where the Domain Name is offered for sale at a price of € 2,000. Complainant asserts that the parking page in question includes hyperlinks related to its own website [www.e-leclerc.com](http://www.e-leclerc.com) as well as other links such as "Leclerc Recrute", "Catalogue Promotion Leclerc", etc., but the record does not show any convincing evidence of this besides the screen snippets reproduced in the Complaint. The Third-party Decider was unable to find such references to Complainant on the website as of the date of issuing this decision. However, it appears beyond doubt that "The domain e-leclerc.be is for sale", as is currently mentioned on the webpage to which the Domain Name is directing.
- 4) The Domain Name holder has registered several other – seemingly unrelated – domain names, including for example <anyfin.us>, <daikin.fr>, <Kellogg.jp> or <levistrauss.kr>. Two other domain names were the subject matter of UDRP procedures in front of the WIPO Arbitration and Mediation Center, whereby the Panelists both ordered that the domain names be transferred to the respective claimants (see Exhibits 7 and 8 of the Complaint, WIPO cases D2019-0358 and DCH2016-021).

#### 5. Position of the parties

##### 5.1. Position of the Complainant

Complainant argues that the Domain Name is confusingly similar, if not identical, to its protected trademark "E Leclerc", that the Domain Name holder does not appear to have any right nor



legitimate interest in the Domain Name, and that the registration and use hereof are made in bad faith in accordance with the Policy.

## 5.2. Position of the Domain name holder

The Domain Name did not respond to the Complaint and did not submit any evidence to the Third-party decider.

## 6. Discussion and findings

Pursuant to Article 16.1 of the *Rules*, the Third-Party Decider shall rule on domain name disputes with due regard to the Policy, the registration agreement and the Rules.

Pursuant to Article 10b (1), (2) and (3) of the Policy, the Complainant must provide evidence of the following:

- *"the Domain name holder is identical or confusingly similar to a trademark, a tradename, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the Domain name holder has no rights or legitimate interests in the domain name; and*
- *the Domain name holder's domain name has been registered or is being used in bad faith."*

### 6.1. The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights

The Third-party decider finds that the Complainant's rights in the trademark "E LECLERC" are established.

According to settled case-law of the Third-party deciders appointed under the Rules and the Policy, the top level domain ".be" and the other non-distinctive features of the Domain Name are not relevant for the assessment of the identity or confusing similarity between the Domain Name and the signs protected by Complainant's earlier rights.

Hence, the Third-party decider finds that the Domain Name is identical to Complainant's mark "E LECLERC", and therefore concludes that the first condition is met.

### 6.2. The Domain name holder has no right or legitimate interests in the Domain Name

The record shows that the Domain Name has never been used in connection with a *bona fide* offering of goods or services, nor that any reasonable preparations for such use have been made. On the contrary, Complainant establishes that the Domain Name holder attempted to sell the Domain Name, not only to Complainant herself, but even to any interested third-party. The record also shows that the Domain Name holder has engaged in a pattern of registering various domain names totally unrelated to one another, so that the Third-party decider can infer that the Domain Name holder is not commonly known under the Domain Name, nor has been making any legitimate use of such Domain Name with no intent to mislead or divert consumers for commercial gain.

Therefore, the Third-party decider finds that the Domain Name holder has no rights nor legitimate interests in the Domain Name, in such a way that the second condition is met.

### 6.3. The Domain Name has been registered or is being used in bad faith

Complainant has established that its trademark is well-known and enjoys a reputation in the territories where it is protected. Hence the Third-party decider concludes that the Domain Name holder knew, or ought to know, of Complainant's rights in the trademark "E LECLERC", at the time of the registration of the Domain Name.

The Third-party decider finds it equally relevant that there appears to be no reason or explanation at all leading to the choice or selection of such a sign as the Domain Name, apart from the demonstrated intention to offer it for sale to any interested third party.

The Domain Name holder did not submit any observation, so that one can only assume that he or she has no good cause or reason for registering the Domain Name, but the intention to sell it. As the record shows that the Domain Name holder engaged in a pattern of conduct of registering domain names with a demonstrated intention to sell the same, the Third-party decider finds it established that the Domain Name was registered and has been used in bad faith.

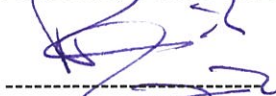
As a result, the Third-party decider concludes that the third condition is met.

## **7. Decision**

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-Party Decider hereby rules that the domain name registration for the "**e-leclerc.be**" domain name :

is to be transferred to the Complainant.

Brussels, 8 June 2020.



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Benjamin DOCQUIR  
The Third-party Decider