

## **ADMINISTRATIVE PANEL DECISION**

Anne-Laure Lesquoy, Marie Macon, and Macon&Lesquoy Company v.  
Feihang45 Fu  
Case No. D2023-0538

### **1. The Parties**

The Complainants are Anne-Laure Lesquoy, France, Marie Macon, France, and Macon&Lesquoy Company, France, represented by Cabinet Charlotte GALICHET, France.

The Respondent is Feihang45 Fu, China.

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

The disputed domain name <maconlesquoy.com> (“the Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2023. On February 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 Respondent of the Complaint, and the proceedings commenced on February 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 10, 2023.

The Center appointed Dawn Osborne as the sole panelist in this matter on March 23, 2023. 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 First and Second Complainant jointly own the trade mark MACON & LESQUOY which is the name of the Third Complainant company, registered, *inter alia*, as international registration no 1190435 on October 7, 2013, for the latter's products, used for patches and jewelry since 2011. The registration certificate notes that the mark may be presented as MACON ET LESQUOY.

The Domain Name registered on July 9, 2022, is attached to a website purporting to sell the Complainant's products using the Complainant's trade mark in its MACON ET LESQUOY logo form as a masthead.

The Respondent has engaged in a pattern of activity of registering domain names containing the trade marks of third parties and using them for imitation web sites.

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

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

The First and Second Complainant jointly own the trade mark MACON & LESQUOY which is the name of the Third Complainant company registered, *inter alia*, as international registration no 1190435 for their products, used for patches and jewelry since 2011. The registration certificate notes that the mark may be presented as MACON ET LESQUOY.

The Domain Name registered in 2022 is confusingly similar to the Complainant's trade mark containing it in its entirety and merely removing the ampersand and adding the generic Top-Level Domain ("gTLD") ".com" which does not prevent said confusing similarity between the Domain Name and the Complainant's mark.

The Respondent is not commonly known by the Domain Name and is not authorised by the Complainant.

The web site connected with the Domain Name purports to sell the Complainant's products using the Complainant's trade mark in its MACON ET LESQUOY logo form as a masthead. Since Internet users will be duped into believing the site attached to the Domain Name is official this is not legitimate. It is registration and use in bad faith confusing and diverting Internet users for commercial gain. The use of the Complainant's logo and reference to the Complainant's products on the Respondent's site shows the Respondent has actual knowledge of the Complainant, its rights, business and services.

The Respondent has engaged in a pattern of activity of registering domain names containing the trade marks of third parties and using them for imitation web sites.

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

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

#### **6. Discussion and Findings**

##### **A. Preliminary Issue: Multiple Complainants**

As described in [WIPO Overview 3.0](#), section 4.11.1 in assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.

The Panel notes the First Complainant and the Second Complainant in this Complaint jointly own the MACON & LESQUOY registered mark which is the name of the Third Complainant company. As such the Complainants all have a specific common grievance against the Respondent whose conduct has affected them all. The Panel agrees that allowing multiple Complainants in this Complaint would be efficient and fair to all Parties.

### **B. Identical or Confusingly Similar**

The Domain Name in this Complaint consists of a slight variation of the Complainant's MACON & LESQUOY mark (registered, *inter alia*, in France for patches and jewelry since 2011) merely omitting the ampersand and adding the gTLD ".com".

The omission of punctuation like an ampersand and the addition of a gTLD does not prevent confusing similarity between a complainant's mark and a domain name.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights for the purpose of the Policy.

### **C. Rights or Legitimate Interests**

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Name.

The website attached to the Domain Name uses the Complainant's logo in its MACON ET LESQUOY logo form as a masthead, purporting to sell the Complainant's products and suggesting that it is an official site of the Complainant when it is not. The Panel finds this use is deceptive and confusing. As such it cannot amount to the *bona fide* offering of goods and services.

The Respondent has not answered the Complaint or rebutted the *prima facie* case evidenced by the Complainant as set out herein.

As such the Panel finds that the Respondent does not have rights to or a legitimate interests in the Domain Name and that the Complainant has satisfied the second limb of the Policy.

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

In the opinion of the Panel the use made of the Domain Name in relation to the Respondent's site is confusing and disruptive in that visitors to the site might reasonably believe it is connected to or approved by the Complainant as it offers products under the Complainant's mark in its MACON ET LESQUOY logo form used as a masthead purporting to offer the Complainant's products and giving the impression that the site attached to the Domain Name is official. The use of the Complainant's logo and the reference to the Complainant's products on the site shows that the Respondent has actual knowledge of the Complainant and its business, products and rights.

Accordingly, the Panel holds that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the web site likely to disrupt the business of the Complainant.

Additionally, the Respondent has engaged in a pattern of activity of registering domain names containing the trade marks of third parties and using them for imitation websites.

As such, the Panel believes that the Complainant has made out its case that the Domain Name was registered and used in bad faith and has satisfied the third limb of the Policy under para 4(b)(ii), (iii) and (iv).

## 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 Domain Name <maconlesquoy.com> be transferred to the Complainant.

*/Dawn Osborne/*

**Dawn Osborne**

Sole Panelist

Date: April 9, 2023