

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Milen Radumilo

Case No. D2022-3881

1. The Parties

The Complainant is Carrefour SA, France, represented by IP Twins, France.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <carefoursa.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2022. On October 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer 0163853011) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 18, 2022 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 October 21, 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 the Respondent of the Complaint, and the proceedings commenced on October 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 14, 2022.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on November 16, 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

The Complainant is a worldwide leader in retail and a pioneer of the concept of hypermarkets since 1968. The Complainant is listed on the index of the Paris Stock Exchange (CAC 40). The Complainant operates more than 12.000 stores in more than 30 countries worldwide with more than 384.000 employees worldwide and 1.3 million daily unique visitors in its stores and is considered a major and well-known worldwide leader in retail.

The Complainant also offers travel, banking, insurance and ticketing services.

The Complainant owns several hundred trademark rights worldwide in the CARREFOUR term and its trademark is undoubtedly considered a notorious trademark. The earliest registration of the CARREFOUR mark is under International registration number 351147, registered on October 2, 1968.

The Complainant is also the owner of numerous domain names identical to its trademarks, both within generic and country code top-level domains.

The Complainant's social media pages are currently "liked" or "followed" by more than 18 million Internet users.

The Respondent registered the disputed domain name on February 28, 2022.

The disputed domain name resolves to a site displaying a security alert and the following warning message: "You've visited an illegal infected website. You have visited unsafe site with illegal content. Your PC is at risk of being infected by viruses. To continue browsing safely – perform an antivirus scan."

5. Parties' Contentions

A. Complainant

The Complainant claims that:

a) the disputed domain name is identical or confusingly similar to its earlier well-known trademarks.

The disputed domain name incorporates in its entirety a recognizable misspelling of the CARREFOUR trademark with an omitted letter "r", together with the letters "sa", which can be perceived by Internet users as the legal status of Complainant (*i.e.* SA - Société Anonyme) or as the two-letter country abbreviation for Saudi Arabia, country in which Complainant is commercially present also through the website

b) The Respondent has no rights or legitimate interests in respect of the disputed domain name since:

i) the Complainant performed searches and found no CARREFOUR trademark owned by the Respondent.

ii) the Respondent reproduces the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant, which is a strong evidence of the lack of rights or legitimate interest. The Complainant submits that it has not authorized the use of its earlier trademarks or terms similar thereto in the disputed domain name in any manner or form.

iii) the Complainant puts forth that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services.

lv) since the adoption and extensive use of its trademarks by the Complainant predates by far the registration of the disputed domain name, the burden is on the Respondent to establish the Respondent's rights or legitimate interests the Respondent may have or have had in the disputed domain name. The Complainant submits that it has made a *prima facie* case of the Respondent's lack of right or legitimate interest in the disputed domain name.

c) The disputed domain name was registered and is being used in bad faith. The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, for the following reasons: i) The Complainant submits that the Complainant and its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights. ii) The Complainant submits that it is highly likely that the Respondent chose the disputed domain name because of its identity with or similarity to a trademark in which the Complainant has rights and legitimate interest. This was most likely done in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the Respondent's domain. Such use cannot be considered a good faith use. iii) The Complainant's trademark registrations significantly predate the registration date of the disputed domain name. iv) The current use of the disputed domain name may not be considered a good faith use. By simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademark in the corresponding disputed domain name. v) Long-lasting international relationship of the Complainant and its trademarks, the Complainant cannot think of any future use of the disputed domain name that may be done by the Respondent in good faith.

In light of all the elements above, the Complainant contends that the disputed domain name was registered and is being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

Substantive Matters

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name incorporates in its entirety a recognizable misspelling of the CARREFOUR trademark with an omitted letter "r", together with the letters "sa". As the trademarks are clearly recognizable within the disputed domain name, neither the omission of the letter "r" or the addition of the letters 'sa' prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1). The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed nor given its consent to the Respondent to use or register any domain name incorporating the Complainant’s trademarks.

Additionally, the Panel finds that the nature of the disputed domain name, incorporating the Complainant’s trademark almost in its entirety with a sole common misspelling (omitting the letter “r”) and adding the letters “sa”, points to an intention to confuse Internet users seeking for or expecting the Complainant. In this sense, the Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or service.

The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain name was registered and has been used in bad faith.

The Complainant and its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights and it is highly likely that the Respondent chose the disputed domain name because of its identity with or similarity.

Furthermore, the Respondent’s use of the disputed domain name to display virus alerts and potentially infecting Internet users is under the circumstances of this case clear evidence of bad faith.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 name, <carefoursa.com>be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: November 29, 2022