

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Miguel Rincon

Case No. D2023-1494

### **1. The Parties**

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

The Respondent is Miguel Rincon, Argentina.

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

The disputed domain name <carrefourplatinum-members.com> is registered with Wix.com Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 5, 2023. On April 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 2023, 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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 10, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on May 17, 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 Complainant operates in the field of retail in more than 30 countries worldwide. The Complainant owns many trademark registrations for CARREFOUR such as International registration No. 351147 registered on October 2, 1968.

The disputed domain name was registered by the Respondent on March 3, 2023, and does not resolve to an active webpage.

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

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

The Complainant contends that the disputed domain name is highly similar to a trademark in which the Complainant has rights. The Complainant owns the trademark CARREFOUR and has registered it in many countries. The Complainant's trademark CARREFOUR has been recognized by prior UDRP panels as a well-known trademark. The disputed domain name incorporates the Complainant's trademark followed by the terms "platinum" and "members", which do not diminish the likelihood of confusion. The Top-Level Domain is not relevant in the assessment of confusing similarity. It is established that the incorporation of a well-known trademark in its entirety is sufficient to establish confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent has acquired any rights in the trademark CARREFOUR. There is no evidence that the Respondent is commonly known by the disputed domain name. The Complainant did not authorize the Respondent to use its trademark in the disputed domain name. There is also no evidence to show the Respondent's use of or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The use of the trademark by the Complainant precedes the registration of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent knew of the Complainant's trademark as the Complainant and its trademark are well-known. The disputed domain name was registered with the intent to attract Internet users by creating confusion with the Complainant's trademark. The use of the trademark by the Complainant significantly predates the registration of the disputed domain name. The Respondent is preventing the Complainant from reflecting its trademark in the correspondent domain name.

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

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

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

##### **A. Identical or Confusingly Similar**

The Complainant owns trademark registrations for CARREFOUR. The Panel is satisfied that the Complainant has established its ownership of the trademark CARREFOUR.

The disputed domain name incorporates the Complainant's trademark CARREFOUR in its entirety. CARREFOUR is a well-known trademark. It is established that the incorporation of a well-known trademark is sufficient to establish confusing similarity. The generic Top-Level Domain ("gTLD") ".com" should typically be ignored when assessing confusing similarity as established by prior UDRP decisions. The term "platinum" and the term "members", which is written with a typo do not eliminate confusing similarity.

Consequently, the Panel finds that the disputed domain name is identical or confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. The Complainant further asserts that the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, and the Respondent is not commonly known by the disputed domain name. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

Additionally, prior UDRP panels have found that domain names identical to or comprising a complainant's trademark plus certain additional terms are seen as tending to suggest sponsorship or endorsement by the trademark owner and carry a high risk of implied affiliation (see section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

The Respondent must have been aware of the Complainant's trademark as CARREFOUR is a well-known trademark which significantly predates the registration of the disputed domain name. The disputed domain name does not resolve to an active website, which constitutes passive holding. Noting the Respondent's failure to provide any good-faith explanation for its registration and use of the disputed domain name, the presumed knowledge by the Respondent of the Complainant's trademark, and the absence of a plausible use of the disputed domain name that would be legitimate (*Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#)), the Panel finds that the use of the disputed domain name in these circumstances does not prevent the Panel's bad faith finding.

Further, prior UDRP panels have recognized that the mere registration of a domain name that is identical to a famous or widely-known trademark by an unaffiliated entity can itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that 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, <carrefourplatinum-members.com> be transferred to the Complainant.

/Nayiri Boghossian/

**Nayiri Boghossian**

Sole Panelist

Date: May 31, 2023