

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Maxine Ohenewaa Asiedu, Madepa
Case No. D2022-0786

1. The Parties

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

The Respondent is Maxine Ohenewaa Asiedu, Madepa, Ghana.

2. The Domain Name and Registrar

The disputed domain name <carrefour-bankenosservice.org> is registered with FastDomain, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 7, 2022. On March 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 14, 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 March 15, 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 March 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 7, 2022.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on April 19, 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 multinational retail company headquartered in France and founded in 1959, with a turnover of EUR 82 billion in 2021. The Complainant operates more than thousands stores in more than 30 countries worldwide, has more than 384,000 employees worldwide and 1,3 million daily unique visitors in its webstores. The Complainant additionally offers travel, banking, insurance, and ticketing services.

The Complainant is the owner of numerous trademarks for or incorporating CARREFOUR, including:

- International trademark for CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 01 to 34;
- International trademark for CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42;
- French trademark for BANQUE CARREFOUR No. 3585968, registered on July 2, 2008, duly renewed, and designating services in international class 36;
- French trademark for CARREFOUR BANQUE & ASSURANCE No. 3585950, registered on July 2, 2008, duly renewed, and designating services in international class 36.

(hereinafter the “CARREFOUR trademarks” or “CARREFOUR trademark”).

In addition, the CARREFOUR trademark has been recognized as well-known by numerous prior UDRP panels.

The disputed domain name <carrefour-bankenosservice.org> was created on October 28, 2021, and resolves to a webpage displaying the following warning: “Firefox blocked this page because it may trick you into doing something dangerous like installing software or revealing personal information like passwords or credit cards.”

The Complainant is also the owner of numerous domain names incorporating CARREFOUR trademarks, both within generic and country code Top-Level Domains, created well before the disputed domain name, including the domain name <carrefour-banque.fr>, created on October 7, 2009. Furthermore, the Complainant also owns <carrefour.net> created on June 18, 2001, <carrefour.com> created on October 25, 1995 and which it uses for corporate purposes.

5. Parties’ Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant contends that the disputed domain name <carrefour-bankenosservice.org> and the CARREFOUR trademarks are confusingly similar.

The Complainant further contends that the CARREFOUR trademarks are recognizable within the disputed domain name and incorporation of a well-known trademark may be sufficient to establish that the disputed domain name is identical or confusingly similar to the Complainant’s trademark.

The Complainant also contends that the dominant part of the disputed domain name is the Complainant's CARREFOUR trademark, and the addition of the terms "service" with the accompanying hyphen does not avoid confusing similarity.

No rights or legitimate Interests

The Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registrations for the CARREFOUR trademark.

The Complainant has not found any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or organization prior to the date on which he registered the disputed domain name.

The Complainant contends that the disputed domain name is used for illegal activity, and such a use cannot confer any rights or legitimate interests.

Registered and used in bad faith

The Complainant submits that the Complainant and its trademarks are so widely known that it is inconceivable that the Respondent was not aware of the Complainant or its earlier trademark rights. Given the Complainant's worldwide reputation and the ubiquitous presence of the Complainant's CARREFOUR trademark in various markets, it is highly likely that the Respondent was aware of the CARREFOUR trademark long prior to registering the disputed domain name.

The disputed domain name resolves to a webpage considered as a cybersecurity threat. Therefore, the Complainant contends that the Respondent is clearly using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Complainant submitted evidence that the CARREFOUR trademark has been registered internationally, well before the disputed domain name was registered by the Respondent. Thus, the Panel finds that the

Complainant's rights in the CARREFOUR trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to the Complainant's CARREFOUR trademark.

Once the generic Top-Level-Domain ("gTLD") is ignored as a standard registration requirement, as reflected in section 1.11.1 of the [WIPO Overview 3.0](#), the addition of the terms "bankenos" (a reference to the term "bank") and "service" does not prevent a finding of confusing similarity of the disputed domain name with the Complainant's trademark. As provided in section 1.8 of the [WIPO Overview 3.0](#), the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the CARREFOUR trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

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 possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the Complainant's contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its CARREFOUR trademark. There is no actual or contemplated *bona fide* or legitimate use of the disputed domain name.

The Complainant further contends that the Respondent is not known under the disputed domain name, does not own any proprietary rights in the name "CARREFOUR" and does not make any *bona fide* use – neither commercial nor noncommercial, of the same.

Based on the case records, the Panel has established that the Respondent has not been commonly known by or associated with the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

In the Panel's view, the use of the disputed domain name by the Respondent does not constitute either *bona fide* use or a legitimate noncommercial or fair use of the disputed domain name. Noting the composition of the disputed domain name, and the warning message displayed when accessing it, the Panel finds the Respondent's probable intention was to target the Complainant and trade off the goodwill of the CARREFOUR trademark.

Furthermore, prior UDRP panels previously have held that use of a domain name for illegal activity – including phishing for personal information and other types of fraud – can never confer rights or legitimate interests on a respondent. The disputed domain name resolves to a webpage identified as a cybersecurity threat by "Google Safe Browsing". It is well established that a use for illegal activity can never confer any rights or legitimate interests.

Under section 2.13.1 of the [WIPO Overview 3.0](#) panels have categorically held that “the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent”. (Section 2.13.1, [WIPO Overview 3.0](#). See also *Rolex SA v. Rime Ksiri, Rime Ksiri*, WIPO Case No. [D2021-0693](#)).

Insofar as the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests to the disputed domain name, this shifts the burden of production to the Respondent to show evidence that it has rights or legitimate interests in the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#) (*Spencer Douglass, MGA v. Bail Yes Bonding*, WIPO Case No. [D2004-0261](#), and *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#)). The Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the disputed domain name.

In view of the absence of any evidence supporting any rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where “by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent’s] web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or of a product or service on [the] web site or location”.

As it was established by the Panel, the disputed domain name was created on October 28, 2021 and resolves to a webpage displaying the following warning: “Firefox blocked this page because it may trick you into doing something dangerous like installing software or revealing personal information like passwords or credit cards.”

The Complainant has produced evidence showing that it owns registrations for the CARREFOUR trademark in various countries, of which dates of registration significantly precede the date of the registration of the disputed domain name.

In addition, the Complainant has credibly submitted that over the years it has developed substantial goodwill in the CARREFOUR trademark. The Panel is convinced that the Complainant’s trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and goodwill in its trademark. See, e.g., *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#); *Carrefour SA. v. Reliant-web Domain Admin / Jean Marie Grolleau / Joanne Elvert*, WIPO Case No. [D2021-2389](#).

Giving the distinctiveness and the famousness of the Complainant’s CARREFOUR trademarks, the Respondent undoubtedly had the Complainant’s business identifiers in mind when registering the disputed domain name. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a strong presumption of bad faith (see section 3.1.1 [WIPO Overview 3.0](#); *Carrefour SA v. blackwhite, dolly tiwari*, WIPO Case No. [D2021-0274](#)).

As the Panel established that the Complainant’s CARREFOUR trademark has been fully incorporated into the disputed domain name, it is the Panel’s view that at the time of the registration of the disputed domain name, the Respondent was well aware of the Complainant’s trademark and of its activity.

Previous UDRP panels have also found bad faith based upon the inclusion of the complainant’s entire mark in a disputed domain name, when due to the composition of the domain name there is no plausible circumstance in which the respondent could legitimately use it. See, e.g., *Cellular One Group v. Paul Brien*,

WIPO Case No. [D2000-0028](#) (registration of <cellularonechina.com> constituted bad faith use because the domain name included complainant's entire CELLULAR ONE mark; "it is not possible to conceive of a plausible circumstance in which Respondent could legitimately use the domain name").

The Panel notes that the warning message identifies the site at the disputed domain name as a deceptive site, the Panel also notes that the message states that the site "may trick you into doing something dangerous". The Panel finds that while this is not conclusive evidence of actual illegal activity, it is evidence that supports the unrebutted argument that the Respondent may be using the disputed domain name for fraudulent activity.

As the Panel established that the disputed domain name bears a potential risk of cyberthreat, the use of the disputed domain name for an illegal activity would also be considered abusive registration and use of the disputed domain name under the Policy. See e.g., *WSI Holdings Ltd. v. WSI House*, WIPO Case No. [D2004-1089](#) ("Respondent appears to be engaged in 'phishing' for mistaken potential employees of the Complainant ... Respondent (1) has adopted a confusingly similar domain name, (2) it has used the trade dress of the Complainant's website, and (3) it has sought to attract users to its site by creating confusion between its site and the Complainant's. It has clearly engaged in activity which fulfils the bad faith requirements of Paragraph 4(b)(iv) of the Policy."). Even if there is no active use of the disputed domain name, in view of its composition, the Panel finds that the passive holding of the disputed domain name would not prevent a finding of bad faith.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to 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 <carrefour-bankenosservice.org> be transferred to the Complainant.

/Kateryna Oliinyk/
Kateryna Oliinyk
Sole Panelist
Date: May 3, 2022