

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Hubert Converty
Case No. D2022-1211

1. The Parties

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

The Respondent is Hubert Converty, France.

2. The Domain Name and Registrar

The disputed domain name <carrefour-shop.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 6, 2022. On April 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 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 April 12, 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 April 19, 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 April 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on June 1, 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 Carrefour SA, a worldwide retail company which operates more than 12,000 stores, in more than 30 countries, with over 384,000 employees worldwide and 1.3 million daily visitors in its stores.

The Complainant owns several trademark registrations including the following:

- International trademark CARREFOUR, No. 351147, registered on October 2, 1968, duly renewed, and designating services in International Classes 1 to 34.
- International trademark CARREFOUR, No. 353849, registered on February 28, 1969, duly renewed, and designating services in International Classes 35 to 42.

In addition to the trademarks previously cited, the Complainant owns various domain names that contain the trademark CARREFOUR and notably the domain names:

- <carrefour.com> registered on October 25, 1995;
- <carrefour.fr> registered on June 23, 2005.

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

The disputed domain name was registered on February 23, 2022.

The disputed domain name resolves to a page stating: "This site can't be reached".

5. Parties' Contentions

A. Complainant

The Complainant first alleges that the disputed domain name is confusingly similar to its earlier well-known trademarks as it incorporates its earlier trademarks together with the term "shop" which refers to the Complainant's activity.

The Complainant contends that the Respondent should be considered as having no rights or legitimate interests in respect of the disputed domain name. Indeed, the Respondent reproduces the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant, furthermore, the Respondent does not own any CARREFOUR trademark.

In addition, the Complainant claims that the Respondent has not used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. To support this claim, the Complainant puts forward a series of arguments. First, the Complainant claims that, considering the reputation of the CARREFOUR trademarks and the fact that the disputed domain name was registered in France, country of origin of the Complainant, the Respondent knew or should have known that, acquiring, and using the disputed domain name, would be in violation of the Complainant's earlier rights which significantly predates the registration of the disputed domain name. Furthermore, the Complainant argues that the registration of the disputed domain name was done in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the disputed domain name. The Complainant claims that other arguments support this

assertion, such as the use of a privacy protection service and the fact that the Respondent was not using the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Complainant has submitted evidence, which incontestably and conclusively establishes rights on the different CARREFOUR trademarks and on the ownership of domain names which contain those trademarks. A number of previous Panel decisions have clearly established that the Complainant's trademarks are widely well known.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's earlier trademarks. Indeed, the disputed domain name incorporates the whole CARREFOUR trademarks.

Furthermore, the Panel concludes that the addition of the term "shop", commonly used in the Complainant's activity, and a hyphen "-" do not prevent a finding of confusing similarity.

Thus, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

(i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at

issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

The Panel notes that the Respondent does not have ownership over CARREFOUR trademarks which could have granted him the right to use this trademark in the disputed domain name. Indeed, the Respondent is not commonly known by the disputed domain name.

Furthermore, the Complainant has not authorized or licenced the Respondent in any way to reproduce or use the CARREFOUR trademarks.

The fact that the disputed domain name is not resolving to an active website is further evidence that the Respondent has not been using or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services (see *Carrefour v. Andre Machado*, WIPO Case No. [DIO2020-0004](#)). There is also no evidence suggesting that the Respondent has been making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent has not responded to the Complainant's *prima facie* contentions and therefore not proved otherwise.

Given these circumstances, the Panel finds that the second element of the paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Panel notes that the Complainant's trademark registrations significantly predate the registration of the disputed domain name and that it has been established by previous UDRP panels that CARREFOUR trademarks are widely well known.

Furthermore, with regards to the location of the Respondent and the notoriety of the Complainant and its trademarks in such location, the Panel finds that at the time of the registration, the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities.

The Panel deduces that the reproduction of the Complainant's trademark in the disputed domain name 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 disputed domain name. As a result, the Respondent registered the disputed domain name in bad faith.

In addition, the Panel notes that the fact that the disputed domain name resolves to an error page does not prevent bad faith and may be considered as passive holding (see *Carrefour v. Andre Machado*, WIPO Case No. [DIO2020-0004](#)).

Taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

Thus, the Panel finds that the Complainant successfully fulfilled the requirements of paragraph 4(a)(iii).

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-shop.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: June 15, 2022