

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Super Privacy Service LTD c/o Dynadot / Wu Yu
Case No. D2022-1279

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America ("United States") / Wu Yu, China.

2. The Domain Name and Registrar

The disputed domain name <distribuidoracarrefour.com> is registered with Dynadot, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 11, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 13, 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 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 18, 2022.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on June 20, 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 an operator of hypermarkets since 1968 with sales of EUR 76 billion in 2018. The Complainant operates more than 12,000 stores in more than 30 countries worldwide and has 384,000 employees worldwide and 1.3 million daily unique visitors in its stores.

The Complainant owns hundreds of trademark registrations worldwide in the CARREFOUR term, in particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods 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.

The Complainant is the owner of numerous domain names identical to its trademarks, both within generic and country code Top-Level Domains, including <carrefour.com> which has been registered since 1995.

The disputed domain name resolves to a website featuring pay-per-click ("PPC") links advertising third parties' goods and services.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's prior registered trademarks as the disputed domain name incorporates the CARREFOUR mark together with the term "distribuidora" (meaning "distributor" in Spanish and Portuguese). The addition of a generic term - whether descriptive, geographical, meaningless or otherwise - such as "distribuidora" to a trademark in a domain name does nothing to diminish the likelihood of confusion arising from that domain name. Considering the Complainant's business activity, the addition of the term "distribuidora" can only further mislead consumers into believing that the disputed domain name is somehow authorized, approved or managed by the Complainant, therefore heightening the risk of confusion.

The Complainant asserts that the Respondent has acquired no trademark rights in the term "Carrefour" which could have granted the Respondent with rights in the disputed domain name. The Complainant has found no evidence whatsoever that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. This statement is reinforced by the fact that the Complainant has filed the present Complaint soon after the registration of the disputed domain name, intending to not allow the Respondent to be commonly known by the disputed domain name.

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 interests. Further, the disputed domain name incorporates the earlier trademarks of the Complainant together with the term "distribuidora" (meaning "distributor" in Spanish and Portuguese) related to the Complainant's business activity which heightens the risk of confusion.

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. The disputed domain name resolves to a page displaying PPC commercial links. Before the set-up of this page, the disputed domain name pointed to a website downloading malicious and potentially harmful content on the device of the Internet user, which triggered a security alert on the device of the Complainant's Representative.

The Complainant submits that the Complainant and its trademarks were so widely well known before the registration of the disputed domain name, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights. The Respondent necessarily had the Complainant's name and trademark in mind when registering the disputed domain name. The Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks. 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 interests. 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 disputed domain name.

The disputed domain name resolves to a page displaying PPC commercial links such as "Ingrosso bibite" ("Wholesale drinks" in Italian) that mislead Internet users and resolve to the webpages featuring goods and services of the Complainant's competitors.

Moreover, the Complainant submits that the Respondent was already cited as a respondent in a previous UDRP complaint and was ordered to transfer the domain name to the complainant in that case. See *Compagnie Générale des Etablissements Michelin v. Super Privacy Service LTD c/o Dynadot / Wu Yu*, WIPO Case No. [D2021-2481](#).

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the famous CARREFOUR trademarks globally. The addition of the term "distribuidora" does not prevent a finding of confusing similarity as the Complainant's CARREFOUR mark is clearly recognizable in the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the disputed domain name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name and has not been commonly known by the disputed domain name. The fact that the Respondent obtained the disputed domain name after the Complainant had begun using its globally famous CARREFOUR marks indicates that the Respondent sought to piggyback on the CARREFOUR marks for the purpose of gaining passive income as a result of the PPC links located on the website associated with the disputed domain name.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the disputed domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of 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

The disputed domain name was registered many years after the Complainant first registered and used its CARREFOUR trademark. The evidence on the record provided by the Complainant with respect to the extent of use and global fame of its CARREFOUR trademark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the disputed domain name was registered, the Respondent undoubtedly knew of the Complainant's CARREFOUR trademark, and knew that it had no rights or legitimate interests in the disputed domain name.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Currently, the disputed domain name resolves to a landing page with PPC links to search terms which generate revenue for the Respondent which is indicative of the Respondent's bad faith. See section 3.5 of the [WIPO Overview 3.0](#).

The Panel finds that the only plausible basis for registering and using the disputed domain name is for illegitimate and bad faith purposes.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

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 <distribuidoracarrefour.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: July 4, 2022