

ADMINISTRATIVE PANEL DECISION

**Carrefour SA v. Registration Private, Domains By Proxy, LLC / 3232 33232
Case No. D2022-1490**

1. The Parties

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

Respondent is Registration Private, Domains By Proxy, LLC, United States of America / 3232 33232, China.

2. The Domain Names and Registrar

The disputed domain names <carrefourbuy.com>, <carrefourshopping.com>, <carrefourshopings.com>, <carrefourshops.com>, <carrefourshopsss.com>, and <carrefourstore.com> (the “Disputed Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2022. On April 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On April 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on April 29, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed amended Complaint on May 2, 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 Respondent of the Complaint, and the proceedings commenced on May 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 24, 2022.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on May 31, 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

Complainant states that it is “a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968”; that it “is listed on the index of the Paris Stock Exchange”; that it “operates more than 12,000 stores in more than 30 countries worldwide”; and that it has “more than 384,000 employees worldwide and 1.3 million daily unique visitors in its stores.”

Complainant further states, and provides documentation in support thereof, that it owns “several hundred” registrations for the trademark CARREFOUR, including Int’l Reg. Nos. 3,51,147 (registered October 2, 1968) and 3,538,49 (registered February 28, 1969) (the “CARREFOUR Trademark”).

The Disputed Domain Names were created on the following dates and are being used as set forth below:

- <carrefourbuy.com>: Created April 14, 2022. Used in connection with e-commerce website selling a variety of goods, such as perfume, watches, and lingerie.
- <carrefourshopping.com>: Created February 22, 2022. Used in connection with e-commerce website selling a variety of goods, such as shoes, televisions, and refrigerators.
- <carrefourshopings.com>: Created April 14, 2022. Used in connection with e-commerce website selling a variety of goods, such as perfume, watches, and lingerie.
- <carrefourshops.com>: Created February 22, 2022. Used in connection with e-commerce website selling a variety of goods, such as jewelry, headphones, and refrigerators.
- <carrefourshopsss.com>: Created March 24, 2022. Used in connection with e-commerce website selling a variety of goods, such as perfume, watches, and lingerie.
- <carrefourstore.com>: Created November 2, 2021. Not used in connection with an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends, in relevant part, as follows:

- Each of the Disputed Domain Names is confusingly similar to the CARREFOUR Trademark because each of them contains the CARREFOUR Trademark plus another word; “the addition of a generic term (such as ‘buy’, ‘shopping’, ‘shopings’, ‘shops’, ‘shopsss’ and ‘store’) to a trademark in a domain name does nothing to diminish the likelihood of confusion”; and “the terms ‘buy’, ‘shopping’, ‘shopings’, ‘shops’, ‘shopsss’ and ‘store’ can only heighten the likelihood of confusion, since Internet users are misled into believing that the words relate to Complainant’s activity and online offering.”
- Respondent has no rights or legitimate interests in respect of any of the Disputed Domain Names because, *inter alia*, “the Complainant performed searches and found no CARREFOUR trademark owned by the Respondent”; “Respondent reproduces the Complainant’s earlier registered trademarks in the disputed domain names without any license or authorization from the Complainant”; and “[t]he disputed domain names are inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making a legitimate noncommercial or fair use of the disputed domain names.”
- Each of the Disputed Domain Names was registered and is being used in bad faith because, *inter alia*, “the Respondent chose the domain names because of their identity with or similarity to a trademark in which the Complainant has rights and legitimate interest,” which “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 domains and corresponding websites"; "Complainant's trademark registrations significantly predate the registration date of the disputed domain names"; "Respondent has been using a privacy protection service in an attempt to escape the present proceedings"; and "Complainant cannot think of any future use of the disputed domain names that may be done by the Respondent in good faith."

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Pursuant to the Policy, Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested, with respect to each of the Disputed Domain Names: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) 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. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the CARREFOUR Trademark.

As to whether the Disputed Domain Names are identical or confusingly similar to the CARREFOUR Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, "carrefourbuy," "carrefourshopping," "carrefourshopings," "carrefourshops," "carrefourshopsss," and "carrefourstore") because "[t]he applicable Top-Level Domain ('TLD') in a domain name (*e.g.*, '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.0](#): "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." Also, as set forth in section 1.8 of [WIPO Overview 3.0](#): "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

Complainant's CARREFOUR Trademark is recognizable in the Disputed Domain Names.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

B. Rights or Legitimate Interests

Complainant has argued that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, "the Complainant performed searches and found no CARREFOUR trademark owned by the Respondent"; "Respondent reproduces the Complainant's earlier registered trademarks in the disputed domain names without any license or authorization from the Complainant"; and "[t]he disputed domain names are inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making a legitimate noncommercial or fair use of the disputed domain names."

[WIPO Overview 3.0](#), section 2.1, states: “[w]hile the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location. Policy, paragraph 4(b).

As set forth above, the Disputed Domain Name <carrefourstore.com> is not associated with an active webpage. As set forth in section 3.3 of [WIPO Overview 3.0](#):

From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

Citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Here, it is apparent that the CARREFOUR Trademark is very distinctive, as previous panels have referred to the mark as “distinctive and well known” (*Carrefour SA. v. Reliant-web Domain Admin / Jean Marie Grolleau / Joanne Elvert*, WIPO Case No. [D2021-2389](#)) and having “an international reputation” (*Carrefour v. Andre Machado*, WIPO Case No. [DIO2020-0004](#)). Further, it is implausible that the Disputed Domain Name could be put to any good faith use.

With respect to the other Disputed Domain Names (<carrefourbuy.com>, <carrefourshopping.com>, <carrefourshopings.com>, <carrefourshops.com>, and <carrefourshopsss.com>), each of which is being used in connection with an e-commerce website, it is apparent that such usage is “intentionally attempted to attract, for commercial gain, Internet users to [Respondent’s] website by creating a likelihood of confusion

with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [Respondent's] web site or location or of a product or service on [Respondent's] web site or location," in violation of paragraph 4(b)(iv) of the Policy.

Finally, with respect to each of the Disputed Domain Names, section 3.14. of [WIPO Overview 3.0](#) says: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or 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." Here, for the reasons cited above, the Panel finds that the CARREFOUR Trademark is famous or widely known for purposes of the Policy, and that combining the trademark with descriptive words, as Respondent has done here, creates a presumption of bad faith.

Accordingly, the Panel finds that Complainant has proven the third element 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 Names <carrefourbuy.com>, <carrefourshopping.com>, <carrefourshopings.com>, <carrefourshops.com>, <carrefourshopsss.com>, and <carrefourstore.com> be transferred to Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: June 13, 2022