

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. moahsine dankchi, ??

Case No. D2022-1532

### **1. The Parties**

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

The Respondent is moahsine dankchi, ??, Morocco.

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

The disputed domain name <carrefour.org> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 28, 2022. On April 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 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 May 6, 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 May 10, 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 May 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 1, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on June 8, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is a worldwide leader in the provision of supermarkets, retail stores, food and non-food products. It pioneered the concept of hypermarkets back in 1968, and has now expanded to convenience stores and online stores. The Complainant is listed on the Paris Stock Exchange and operates more than 12,000 stores in more than 30 countries worldwide, having more than 321,000 employees and 1.3 million daily unique visitors in its stores.

The Complainant has registered numerous trademarks consisting of CARREFOUR including the International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in International Classes 1 to 34, and the 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 consisting of the CARREFOUR trademark, for instance <carrefour.org>, which is registered since 1997. The Complainant is the registrant of more than 130 “carrefour” domain names.

The disputed domain name was registered on February 3, 2022 and does not resolve to an active website.

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

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

The Complainant argues that the disputed domain name is confusingly similar to its CARREFOUR trademark as the disputed domain name consists of a misspelled version of the CARREFOUR trademark, which doubles the letter “f”, having no significant difference between the Complainant’s trademark and the disputed domain name. A one-letter difference does not change the overall impression of the disputed domain name.

As regards the second element, the Complainant argues that the Respondent has never been granted authorization, license or any right whatsoever to use the trademark of the Complainant, nor is the Respondent commercially linked to the Complainant. The Respondent has not used or made any demonstrable preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services. On the contrary, the disputed domain name resolves to an error page. The Complainant also argues that the Respondent chose the disputed domain name because of its similarity to the Complainant’s trademark, most likely with the expectation that Internet users searching for the Complainant’s services and products would be led to the Respondent’s website.

With respect to the third element, the Complainant argues that its trademarks are so widely well known, that it is inconceivable that the Respondent was unaware of the Complainant or its earlier rights in the term CARREFOUR. The Complainant contends that the Respondent acquired the disputed domain name to prevent the Complainant from reflecting its earlier trademarks in the corresponding domain name and with full knowledge of the Complainant and its earlier rights. As regards the use, the Complainant argues that the disputed domain name is being used in bad faith according to the doctrine of “passive holding”. The Respondent partially obfuscated its contact information for the registration of a domain name almost identical to a famous, intensively used trademark. Due to the Complainant’s overwhelming renown and popularity

worldwide, along with the nature of the disputed domain name, the Complainant contends that there simply cannot be any actual or contemplated good faith use of the disputed domain name by the Respondent or any third party as it would result in misleading diversion and taking unfair advantage of the Complainant's rights.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Matters**

No communication has been received from the Respondent in this case. However, given that notice of the Complaint was sent to the relevant addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response.

### **6.2 Substantive Matters**

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

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

The Complainant has provided evidence of its rights in the CARREFOUR trademarks.

As regards the question of identity or confusing similarity for the purpose of the Policy, it requires a comparison of the disputed domain name with the trademarks in which the Complainant holds rights. According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "this test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name".

Here the disputed domain name consists of the obvious misspelling of the CARREFOUR trademark of the Complainant, with the addition of an additional "f" in the disputed domain name. This misspelling in the disputed domain names, also referred to as typosquatting, is insufficient to avoid a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9).

It is well accepted by UDRP panels that a generic Top Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case the Complainant has established a *prima facie* case that it holds rights over the trademark CARREFOUR, and that the Respondent has no legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Also, there is no evidence that the Respondent is commonly known by the disputed domain name.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complainant's contentions.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

According to the un rebutted assertions of the Complainant, its CARREFOUR trademarks were widely used in commerce well before the registration of the disputed domain name in February 2022 and are well-known. The disputed domain name is confusingly similar with the Complainant's trademarks. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why he registered the disputed domain name.

As regards the use, the disputed domain name is passively held.

Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "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."

The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademark of the Complainant is distinctive and widely used in commerce. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar 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](#).

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. Considering all the above, it is not possible to conceive any plausible actual or contemplated good faith registration and use of the disputed domain name by the Respondent.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain name was registered and 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 <carreffour.org> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: June 22, 2022