

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Domain Administrator, See PrivacyGuardian.org / Zhiqiang Chen

Case No. D2022-1851

1. The Parties

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

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America / Zhiqiang Chen, China.

2. The Domain Name and Registrar

The disputed domain name <carrefourmall.buzz> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2022. On May 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 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 25, 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 27, 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 June 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 22, 2022.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on July 7, 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 Carrefour is a French retail group operating hypermarkets all over the world. The Complainant is also offering travel, banking, insurance, or ticketing services under its house mark CARREFOUR.

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.

The Complainant is also the owner of the domain name <carrefour.com> registered since 1995.

The disputed domain name is registered on February 6, 2022, and resolve to an inactive error page.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is confusingly similar, and at the same time, incorporating the Complainant's well-known trademark CARREFOUR and that the addition of the descriptive word "mall" reinforces the association between the disputed domain name and the Complainant's trademark.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark CARREFOUR. The Complainant further asserts that although the Respondent is not using the disputed domain name, any future use cannot be considered for a *bona fide* offering of goods and services.

Finally, in addressing the question of registration and use of the disputed domain name in bad faith, the Complainant observes that the Respondent is well aware of the Complainant's trademark considering their trademark is so widely well-known that it is inconceivable that the Respondent ignored the Complainant or its earlier rights and that anyway a quick trademark search would have revealed to the Respondent the existence of the Complainant and its trademarks.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that

- (i) The 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 interest in respect of the domain name; and

(iii) The domain name has been registered in bad faith and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar for the purpose of the Policy to the Complainant's trademark CARREFOUR.

The disputed domain name wholly incorporates the Complainant's distinctive trademark and the term "mall" does not prevent confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

As regards the generic Top-Level Domain, it is typically disregarded under the confusing similarity test.

For the reasons mentioned above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's CARREFOUR trademark.

The Complainant has thus fulfilled paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The *onus* is upon the Complainant to make out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case.

The Panel accepts the Complainant's submissions that the Respondent does not appear to have been known by the disputed domain name, has not made demonstrable preparations to use the disputed domain name, and the Respondent is not making a legitimate noncommercial use of the disputed domain name.

The Respondent has not filed a Response. It has no consent from the Complainant to register any domain name incorporating the Complainant's trademark, it has not used the disputed domain names for a *bona fide* offering of goods or services, and the Respondent is not commonly known by the disputed domain name, nor is it making noncommercial fair use of the disputed domain name.

The current passive holding of the disputed domain name does not give rise to any rights or legitimate interests.

In the Panel's view, the Complainant has made out their *prima facie* case under this element of the Policy and the Respondent, who is in default, has failed to rebut this case.

In the circumstances of this case, and in view of the Panel's discussion below, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel accepts the Complainant's assertions that the trademark CARREFOUR is a well-known trademark. The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

The Respondent has registered the disputed domain name but has not put it to any material use. Thus the Respondent is holding the disputed domain name passively. It has long been generally held in UDRP decisions that the passive holding of a domain name that incorporates a well-known trademark, without any

actual or contemplated good faith use for an Internet purpose, does not necessarily circumvent a finding that the domain name is in use within the requirements of paragraph 4(a)(iii) of the Policy (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). Given the Respondent's lack of participation in this proceeding, the lack of any credible good-faith use to which the confusingly similar disputed domain name could be put, and the Respondent's use of false contact information, the totality of circumstances supports an inference of bad faith.

Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, 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 <carrefourmall.buzz> be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: August 4, 2022