

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Moha, Moha Kamimo
Case No. D2022-3495

1. The Parties

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

The Respondent is Moha, Moha Kamimo, France.

2. The Domain Name and Registrar

The disputed domain name <carrefour-passfr.info> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2022. On September 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 21, 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 (Domain Administrator, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 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 September 28, 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 October 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2022.

The Center appointed Marie-Emmanuelle Haas as the sole panelist in this matter on October 27, 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 a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968. With a turnaround of EUR 76 billion in 2018, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40). It operates more than 12.000 stores in more than 30 countries worldwide. With more than 384.000 employees worldwide and 1.3 million daily unique visitors in its stores, the Complainant is without a doubt a major and well-known worldwide leader in retail. It also offers travel, banking, insurance and ticketing services.

The Complainant is the owner of the following prior trademarks:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968 in classes 1 to 34, duly renewed;
- International trademark CARREFOUR No. 353849, registered on February 28, 1969 in classes 35 to 42, duly renewed;
- International trademark CARREFOUR PASS No. 719166, registered on August 18, 1999 in class 36, duly renewed.

The Complainant asserts that it is also the owner of numerous domain names identical to - and comprising – its trademarks, such as the domain name <carrefour.com> which has been registered since 1995.

The Complainant submits that its earlier trademarks enjoy a widespread continuous reputation, as stated by a large number of UDRP decisions on which it relies.

The Complainant's fame and notoriety is also evidenced on the Internet. Indeed, the Complainant's Facebook page is currently "liked" by more than 11 million Internet users.

The disputed domain name <carrefour-passfr.info> was registered on August 15, 2022 and resolves to a page that displays the message "503 Service Unavailable".

The registrant is an individual, the personal data of which were disclosed by the Registrar, according to the Rules of the procedure. It appears that the registrant is domiciled in France.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name <carrefour-passfr.info> is confusingly similar to its earlier well-known trademarks CARREFOUR and CARREFOUR PASS.

It is established case law that the addition of generic terms to a trademark in a domain name does nothing to diminish the likelihood of confusion arising from that domain name. It relies on a prior UDRP decision *Carrefour SA v. Albert Pierre*, WIPO Case No. [D2022-1740](#) <carfourrpass-es.com> which ordered the transfer of the disputed domain name.

The earlier trademarks of the Complainant are immediately recognizable within the disputed domain name.

The addition of “fr” after “carrefour-pass” can only increase the likelihood of confusion since users can perceive this as a reference to France, country in which the Complainant is headquartered.

The disputed domain name reproduces the Complainant’s trademarks. Therefore, the Complainant contends that the contested domain name is confusingly similar to the Complainant’s earlier trademarks.

The first condition under the Policy should be deemed satisfied.

The Respondent has no rights or legitimate interests in respect of the domain name(s); (Policy, paragraph 4(a)(ii); Rules, paragraph 3(b)(ix)(2)).

Further to the Center’s Notice of Registrant Information, the Respondent was identified as moha/moha kamino.

Firstly, the Complainant performed searches and found no CARREFOUR or CARREFOUR PASS trademark owned by the Respondent.

There is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization.

Secondly, the Respondent reproduces the Complainant’s earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant, which is strong evidence of the lack of rights or legitimate interest. The Complainant submits that it has not authorized the use of its earlier trademarks or terms similar thereto in the disputed domain name in any manner or form.

Thirdly, the Complainant puts forth that 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. It underlines that the disputed domain name resolves to a page that displays the message “503 Service unavailable”.

The disputed domain name is inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making a legitimate non-commercial or fair use of the disputed domain name. In addition, in light of the worldwide renown of the Complainant’s trademark, the Complainant sees no plausible use of the domain that would be legitimate, fair and non-commercial.

Fourthly, the CARREFOUR or CARREFOUR PASS trademarks predate by far the disputed domain name. The Complainant submits that it has made a *prima facie* case of the Respondent’s lack of rights or legitimate interests in the disputed domain name.

- The domain name was registered and is being used in bad faith. (Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3)).

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, for the following reasons.

Firstly, the Complainant submits that the Complainant and its trademarks are so widely well-known, that it is inconceivable that the Respondent, who is domiciled in France, ignored the Complainant or its earlier rights.

As indicated above, the Complainant enjoys a long-lasting worldwide reputation, which has now been established by Panels for years.

The Respondent necessarily had the Complainant’s name and trademark in mind when registering the disputed domain name. The Respondent’s choice of domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a

famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (*Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case No. [D2021-0274](#)).

Secondly, the Complainant submits that 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 interest. 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 Respondent's domain. Such use cannot be considered a good faith use (*Express Scripts, Inc. v. Windgather Investments Ltd/ Mr. Cartwright*, WIPO Case No. [D2007-0267](#)).

Thirdly, the Complainant's trademark registrations significantly predate the registration date of the disputed domain name.

Fourthly, the current use of the disputed domain name may not be considered a good faith use. By simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademarks in the disputed domain name.

In addition, the disputed domain name resolves to an error page. The non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding.

The Complainant furthermore submits that the Respondent has been using a privacy protection service in an attempt to escape the present proceeding. The Respondent's efforts to conceal its identity through the use of a Whois proxy service can be construed as further evidence that the disputed domain name was registered in bad faith.

Fifthly, given the long-lasting international presence of the Complainant using its trademarks, the Complainant cannot think of any future use of the disputed domain name that may be done by the Respondent in good faith.

In light of all the elements above, the Complainant contends that the disputed domain name was registered and is being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The disputed domain name <carrefour-passfr.info> wholly incorporates the CARREFOUR and CARREFOUR PASS trademarks.

The disputed domain name only differs from the CARREFOUR PASS trademark by the addition of the letters "fr" which refer to France. Such addition does not prevent a finding of confusing similarity.

Thus, the disputed domain name is confusingly similar to the CARREFOUR PASS trademarks.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating any of the following:

- (i) before any notice to it 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 has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial 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 is not commonly known under the disputed domain name.

The Complainant asserts that the Respondent is not related in any way with the Complainant and that it did not grant neither license nor authorization to use the CARREFOUR and CARREFOUR PASS trademarks or to register the disputed domain name. This allegation was not contested by the Respondent.

There is no indication that the Respondent is commonly known by the CARREFOUR and CARREFOUR PASS trademarks.

There is no evidence of any *bona fide* use of the disputed domain name.

The Respondent did not respond to the Complainant to rebut its *prima facie* case. It did not provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the disputed domain name.

Therefore, the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in respect to the disputed domain name, which was not rebutted by the Respondent

The Panel concludes that the Complainant has established that the Respondent does not have any rights or legitimate interests in the disputed domain name, within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a Panel to be evidence of bad faith registration and use of the disputed domain name.

It provides that:

For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a Domain Name in bad faith:

- (i) circumstances indicating that the Respondent has registered or the respondent has 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 respondent's documented out-of-pocket costs directly related to the Domain Name; or

(ii) the Respondent 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 respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The CARREFOUR trademark is internationally well-known.

Given the Complainant's reputation, it is reasonable to assume that the Respondent, who is domiciled in France, was well aware of the CARREFOUR and CARREFOUR PASS trademarks when it registered the disputed domain name.

Given the international reputation of the CARREFOUR trademark, the Panel cannot conceive any use that the Respondent could make of the disputed domain name that would not interfere with the Complainant's trademark rights.

Under the circumstances of the case, the Panel finds that the disputed domain name has been registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 name <carrefour-passfr.info> be transferred to the Complainant.

Marie-Emmanuelle Haas

Sole Panelist

Date: November 9, 2022