

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Iuan souza Souza, Silmara de Souza
Case No. D2022-3574

1. The Parties

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

The Respondent is Iuan souza Souza, Silmara de Souza, Brazil.

2. The Domain Name and Registrar

The disputed domain name <carrefour-formulario.com> is registered with Wild West Domains, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 27, 2022. On September 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 30, 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 (Domains By Proxy, LLC, United States of America) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same date, 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 30, 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 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 2, 2022.

The Center appointed Masato Dogauchi as the sole panelist in this matter on November 16, 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

Whereas the Respondent has not submitted any response, the following information from the Complaint is found to be the factual background of this case.

The Complainant is a large French company doing business in retail. The Complainant is listed on the index of the Paris Stock Exchange (CAC 40). The Complainant operates more than 12,000 stores in more than 30 countries worldwide, and has 1.3 million visitors daily in its stores. The Complainant additionally offers travel, banking, insurance and ticketing services.

The Complainant owns several hundred trademarks worldwide in the “Carrefour” term. In particular, the Complainant is the owner of the following trademarks:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, and duly renewed;
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, and duly renewed;
- European Union trademark CARREFOUR No. 005178371, registered on August 30, 2007, and duly renewed.

In addition, the Complainant is also the owner of numerous domain names comprising its CARREFOUR trademarks, both within generic and country code Top-Level Domains. For instance, the domain name <carrefour.com> has been registered since 1995, and the domain name <carrefour.fr> was registered in 2005.

The disputed domain name was registered on July 21, 2022. It resolves to a website with error message.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its trademark. The disputed domain name consists of the Complainant's CARREFOUR trademark, followed by a hyphen “-”, the term “formulario” and the generic Top-Level Domain (“gTLD”) “.com”. The term “formulario”, an Italian and Spanish term meaning “form”, does not obviate the confusing similarity between the disputed domain name and the CARREFOUR trademark, since the addition of such generic term to the Complainant's trademark does nothing to diminish the confusing similarity between them. Further, on the basis of prior UDRP decisions, a hyphen is of negligible significance when assessing confusing similarity, and the gTLD, in this case “.com” should be disregarded in assessing confusing similarity.

Second, the Complainant asserts that the Respondent should be considered as having no rights or legitimate interests in respect of the disputed domain name. The Complainant has never licensed the Respondent to use its trademark in the disputed domain name in any manner or form. According to the search done by the Complainant, no CARREFOUR trademark owned by the Respondent has been found. Furthermore, there is no evidence that the Respondent has been commonly known by the disputed domain name and is using the disputed domain name for a *bona fide* offering of goods or services.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. The Respondent's choice of the disputed domain name cannot have been accidental, since the trademark is well known around the world. The current use of the disputed domain name may not be considered a good-faith use. The disputed domain name resolves to an error page. Such non-use of the disputed domain name does not prevent a finding that it is being used in bad faith. By simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademark in the corresponding domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed 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 interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the CARREFOUR trademark.

The disputed domain name includes the Complainant's CARREFOUR trademark. Such inclusion is by itself enough to consider the disputed domain name confusingly similar to the Complainant's CARREFOUR trademark. The addition of the hyphen and the term "formulario" ("form" in Italian or Spanish) in the disputed domain name does not prevent a finding of confusing similarity. Further, as well-established in prior UDRP decisions, the gTLD ".com" contained in the disputed domain name is typically irrelevant in the determination of the confusing similarity.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

There is no evidence at all that shows that the Respondent is commonly known by the name "carrefour" or "carrefour-formulario". The Respondent is not authorized or licensed to use the Complainant's CARREFOUR trademark. Moreover, no *bona fide* offering of goods or services, or legitimate noncommercial or fair use has been made of the disputed domain name. The evidence shows that the disputed domain name resolves to a website with error message. The Panel further notes that the composition of the disputed domain name carries a risk of implied affiliation (see section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

According to prior UDRP decisions, it is sufficient that the Complainant shows *prima facie* that the Respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production to the Respondent. Since the Respondent did not reply to the Complainant's *prima facie* contentions in this proceeding, the Panel finds on the available record that the Complainant has established an unrebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

The Complainant is a famous retailer throughout the world and its CARREFOUR trademark is well known worldwide. Therefore, it is highly unlikely that the Respondent would not have known of the Complainant's rights in the trademark at the time of registration of the disputed domain name. Nothing in the disputed domain name bears any reasonable relevance to the Respondent. There can be found no reasonable possibility of fortuity in the Respondent's innocent registration of the disputed domain name.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, as the Complainant asserted, non-use of the disputed domain name does not prevent a finding that it is being used in bad faith under the doctrine of "passive holding", in particular, considering the Complainant's CARREFOUR trademark is well known and the implausibility of any good-faith use to which the disputed domain name may be put. See section 3.3 of the [WIPO Overview 3.0](#).

In addition, the Respondent did not reply to the Complaint in this proceeding.

Based on the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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-formulario.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: November 30, 2022