

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Salman Nazari, Carrefour  
Case No. D2022-4457

### **1. The Parties**

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

The Respondent is Salman Nazari, Carrefour, Canada.

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

The disputed domain name <carrefour-world.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2022. On November 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 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 (Contact Privacy Inc. Customer 165623421) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 23, 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 November 23, 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 November 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 20, 2022.

The Center appointed Anne Gundelfinger as the sole panelist in this matter on December 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 Carrefour SA, founded in France in 1959. The Complainant is a worldwide leader in retail and a pioneer of the concept of a “hypermarket”, a combination of a large grocery store with a general merchandise store, also sometimes referred to as a “big box” store. With revenue of 76 billion euros in 2018, the Complainant is listed on the CAC 40 index of the Paris Stock Exchange. The Complainant has more than 384,000 employees worldwide and operates more than 12,000 stores in more than 30 countries worldwide, with 1.3 million daily unique visitors in its stores. According to the Complainant’s corporate website at “www.carrefour.com”, the Complainant operates stores primarily in Europe, the Middle East and Africa, the Caribbean, and a few countries in Asia and South America. It does not operate any physical locations or e-commerce sites in North America, including Canada.

The Complainant owns trademark registrations for the CARREFOUR mark (“Mark” or “Complainant’s Mark”) in a great many jurisdictions around the world. In particular, the Complainant is the owner *inter alia* of the following registrations:

- CARREFOUR, International Trademark Registration No. 351147, registered on October 2, 1968, duly renewed, and designating goods in International Classes 1 to 34;
- CARREFOUR, International Trademark Registration No. 353849, registered on February 28, 1969, duly renewed, and designating services in International Classes 35 to 42; and
- CARREFOUR, Canadian Trademark No. TMA511596, registered on May 7, 1999, duly renewed, and designating goods and services in International Classes 1 to 45.

In addition, the Complainant owns domain names identical to or comprising its Mark, both within generic and country code Top-Level Domains (“TLD”), including *inter alia* (i) <carrefour.com> which has been registered since 1995 and hosts the Complainant’s primary corporate website, and (ii) <carrefour.fr> which has been registered since at least 2005 and hosts the Complainant’s primary online shopping site in France.

The Respondent registered the disputed domain name <carrefour-world.com> on November 3, 2022 using a privacy service. At the time of the filing of the Complaint and throughout most of the pendency of this proceeding, the disputed domain name resolved to an active e-commerce website purportedly selling smart watches priced in Canadian dollars and offering worldwide shipping. According to both Whois and the contact information on the Respondent’s website, the Respondent’s business is located in Laval, Québec, in the Montréal metro area. The Respondent provided its name, full street address, phone number, and email address on the website, which information corresponds to the information included in Whois.

Given the limited factual record provided by the parties, and in the interests of reaching a fair and informed result, the Panel conducted limited independent research, as permitted by paragraph 10 of the UDRP Rules. See, section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). Specifically, the Panel checked the content hosted at the Respondent’s website under the disputed domain name at the time the Complaint was filed and gathered information from the Complainant’s website about the Complainant’s business. The Panel also consulted Canadian French dictionaries, conducted Google Internet and map searches, and conducted a Canadian trademark search, to better understand the meaning and usage of the word “carrefour” in Canadian French. The Panel felt that this was essential to a fair and informed decision given that the Respondent is located in Québec where Canadian French (or Québécois) is the only official language and the dominantly used language.

The term “carrefour” is a common French word meaning “intersection” or “crossroads”. The official website of the government of Québec provides a broad range of Canadian French (or Québécois) language

resources including its *Grande Dictionnaire Terminologique* (GDT). The GDT provides a number of broader, more figurative definitions and usages of the term “carrefour” as used in Québécois. These include, but are not limited to, “meeting place”, “encounter”, “widely open meeting”, “commercial hub”, and “business hub”. See, GDT definitions produced by a search of “carrefour” in the Office Québécois de la Langue Française’s *Vitrine Linguistique* at “<https://vitrinelinguistique.oqlf.gouv.qc.ca>”.

The Panel’s Google Internet and map searches further confirmed that the word “carrefour” is very widely used in Québec to refer to physical and virtual places where people meet, gather, and/or shop, including as part of the names of shopping centers and malls, community centers, professional organizations, online “spaces”, and apartment or other residential complexes. A small sampling of the many carrefour-based shopping center names in Québec includes Le Carrefour Laval (Laval, Québec), Carrefour Langelier (Saint-Leonard, Québec), Carrefour Vaudreuil (Vaudreuil-Dorion, Québec), Le Carrefour Angrignon, (LaSalle, Québec), Carrefour de la Rive-Sud (Boucherville, Québec), Carrefour Frontenac (Thetford Mines, Québec), Carrefour Charlemagne (Charlemagne, Québec), Carrefour de L’Estrie (Sherbrooke, Québec), and Carrefour Saint-Georges (Saint-Georges, Québec).

Finally, the Panel conducted a search of marks registered on the Canadian trademark register that include the term “carrefour”. The search confirmed the very common usage of the term “carrefour” as part of the names of places, returning over 35 coexisting carrefour-based marks (either registered or advertised) owned by multiple different registrants (not the Complainant), including registrations for many of the aforementioned shopping centers.

## **5. Parties’ Contentions**

### **A. Complainant**

The Complainant contends that its CARREFOUR Mark is internationally well known due to its long and prominent use in Europe and other international markets, as well as its wide registration. The Complainant points the fact that many other UDRP panels have found the CARREFOUR Mark to be well known. The Complainant argues that the disputed domain name is confusingly similar to its Mark because the disputed domain name wholly incorporates the Mark followed by a hyphen and the common English word “world”.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name because the Complainant has given no authorization or license for registration or use of the disputed domain name and the Respondent is not commonly known by the disputed domain name. The Complainant further argues that:

“[t]here is no evidence that the Respondent has been making a legitimate non-commercial or fair use of the domain name ... [and] ... 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.”

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. Specifically, the Complainant asserts the Complainant’s Mark is of such great international renown that the Respondent can only have been targeting the Complainant’s CARREFOUR Mark, and this alone suffices to demonstrate bad faith registration and use. The Complainant also argues that the Respondent’s website looks suspicious because

“...there is no indication of the identity of the company or individual running the business [...]. [C]ontact details are limited and incomplete. Only a Gmail address is available ([...]@gmail.com) and a possible telephone number ([...]) has no international prefix indication, making it useless. Other contact information was intentionally omitted across the website.”

The Complainant goes on to speculate that the Respondent may not in fact be selling smart watches or may be selling counterfeits but provides no supporting evidence for these claims. Finally, the Complainant points to the Respondent's use of a privacy service as evidence of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements to be successful in this action: (i) the disputed domain name is identical or confusingly similar to trademarks or service marks in which the Complainant has rights; (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 disputed domain name wholly incorporates the Complainant's CARREFOUR Mark followed by a hyphen and the common English word "world". It is well-established that the addition of other terms (whether generic, descriptive, geographical, pejorative, meaningless, or otherwise) to a complainant's mark does not prevent a finding of confusing similarity between a domain name and that mark. See, section 1.8 of the [WIPO Overview 3.0](#) and cases cited therein. See also, *Allianz SE v. IP Legal, Allianz Bank Limited*, WIPO Case No. [D2017-0287](#); and *Accor v. WhoisGuard, Inc. / Bill Bro*, WIPO Case No. [D2018-2329](#).

Similarly, the addition of the generic TLD ".com" is viewed as a standard registration requirement and as such is generally disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark, and that the first element of the test is satisfied.

### **B. Rights or Legitimate Interests & Registered and Used in Bad Faith**

The second element of the test requires a showing that the Respondent has no rights or legitimate interests in the disputed domain name, and the third element of the test requires a showing that the disputed domain name has been registered and is being used in bad faith. Departing from the usual approach in UDRP decisions, the Panel addresses the second and third elements together, given their close relationship in this case. See, section 2.15 of the [WIPO Overview 3.0](#).

At the outset of this discussion, it is important to state that the Complainant has the burden of proof on both the questions of rights or legitimate interests and bad faith registration and use and is required to prove both elements by a preponderance of the evidence or on the balance of probabilities. Mere allegations are insufficient. See, section 4(a) of the Policy. Regarding rights or legitimate interests, once a *prima facie* showing is made by a complainant, the burden of production on this point shifts to the respondent to come forward with evidence of rights or legitimate interests in the disputed domain name. This burden-shifting is appropriate given that the respondent is often the only party with access to evidence of its own rights or legitimate interests. Accordingly, where a respondent fails to file a response a UDRP panel may draw inferences from the failure to respond as appropriate under the circumstances of the case. That said, a panel is not required to draw negative inferences against a respondent in the absence of a response being filed, but rather is required to consider all of the available evidence to reach a fair result based on the evidence as a whole. See, section 2.1 of the [WIPO Overview 3.0](#) and cases cited therein.

The fundamental gist of the Complainant's argument in this case is that the CARREFOUR Mark is of such great international renown that the Respondent must have been targeting the Mark and therefore one can

infer that the Respondent registered and is using the disputed domain name in bad faith intentionally to attract, for commercial gain, Internet users to its website. The Complainant further argues that in light of the renown of its Mark, as well as the (inferred) bad faith, the Respondent cannot possibly have any rights or legitimate interests in the disputed domain name and that there is no plausible legitimate or fair use that the Respondent could make.

The Panel readily acknowledges that the Complainant's Mark is long-established and well-known at least (if not primarily) in Europe. Given this, the Panel also agrees that it is possible that the Respondent was aware of the Complainant's Mark in adopting and using the disputed domain name. However, if one considers that the Complainant does not have any locations or other presence in Canada or even North America, it seems at least equally likely that the Respondent was not aware of the Complainant's Mark despite its renown in other parts of the world. Moreover, in light of the apparent common usage of the term "carrefour" in Québec in reference to both physical and virtual places, including many shopping centers, it seems at least as likely that the Respondent's use of "carrefour" was intended in this same sense of a "place to shop". In these circumstances, it is difficult to confidently infer targeting of the Complainant's Mark solely from the alleged "worldwide reputation" of the Mark.

Add to the foregoing that there is simply no evidence of bad faith targeting other than the international renown of the Complainant's Mark. The Panel diligently searched for some evidence of bad faith and could find none. There has been no impersonation or use of the Complainant's branding or trade dress on the Respondent's website. No clearly misleading content was presented on the Respondent's website. There was no misleading pay-per-click use on the Respondent's website. There have been no misleading names or addresses or phone numbers on the Respondent's website. Indeed, contrary to the Complainant's assertions, the Respondent's full address, phone number, and email address are clearly provided under the "Contact Information" link on the website.<sup>1</sup> The Complainant has provided no evidence that this information is false, and a quick Google Map search confirms that the address is, at the very least, a valid street address.

The Complainant argues that the lack of a country code for the phone number and the lack of a VAT number on the Respondent's website are highly suspicious. The Panel is not persuaded. The absence of a country code for the phone number is not uncommon, and the phone number is in the Canadian format with the (514) area code for Montréal, so it is quite plausibly a valid phone number for the Respondent, and is hardly "useless" as argued by the Complainant.<sup>2</sup> As for the absence of a VAT number on the website, while Canada has a nationwide goods and services tax, it is not referred to by the acronym "VAT" but rather GST, and there is no evidence that it is required to be displayed on Canadian e-commerce websites.

The Panel acknowledges that the Respondent's website was simple and unsophisticated, and rather clumsily borrowed some of its language for its shipping, return, and privacy policies from other larger e-commerce sites. While this could reasonably raise suspicion that the website might be engaged in illegitimate activity, it is by no means conclusive on this point. A just as likely explanation for the simplicity and lack of sophistication is that the owner of the website is a small businessperson with little experience in e-commerce operating with limited resources. In sum, there was nothing on the Respondent's website other than the offer to sell smart watches, along with information regarding those watches and how to purchase them, and how to return them if not satisfied. While the website was certainly not a sophisticated e-commerce site, the Complainant has provided no evidence that it is or was anything other than a small, albeit unsophisticated, business.

There is also no evidence of any sort of fraudulent or misleading activity that would support a finding of bad

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<sup>1</sup> The Complainant argued that the Respondent "intentionally omitted" contact information from its website except for a Gmail address and a telephone number, but screenshots of the Respondent's website submitted as evidence by the Complainant include a screenshot of the page clearly setting forth the Respondent's full street address, phone number, and email address.

<sup>2</sup> Indeed, the Complainant's own consumer website at "www.carrefour.fr" provides the customer service number "09 69 39 70 00" without the country code for France.

faith, such as phishing, or counterfeiting, or some other business compromise scheme using the disputed domain name. Similarly, there is no evidence that the Respondent is seeking to sell the disputed domain name, nor is there evidence that the Respondent has engaged in other abusive domain name registrations.

Finally, the Complainant argues that the Respondent's use of a privacy service is evidence of bad faith. The Panel acknowledges that the use of a privacy service can be a relevant factor in a finding of bad faith in some circumstances. However, the use of privacy services has greatly increased in recent years, even by legitimate actors, and therefore is somewhat less probative of bad faith than it has been in the past. Moreover, in this case, the use of a privacy service does not suggest bad faith to the Panel given that the Respondent openly provided its name, address, email address, and phone number on its website. And this information matches the information in the Whois record for the disputed domain name. Under these circumstances it simply does not appear that the Respondent was trying to hide its identity in furtherance of an illegitimate scheme.

In sum, there is no evidence of bad faith here and no basis for inferring bad faith other than the renown of the Complainant's Mark. Consistent with many other UDRP panel decisions, the Panel is certainly comfortable drawing an inference of bad faith based on the renown of a mark where there is no other plausible explanation for a respondent's use of a mark, such as where the mark in question is coined or is globally well-known or even just well-known in the relevant market. But in this case, the balance of the probabilities on the evidence at hand is that the Respondent had not encountered the Complainant's Mark but had understood the term "carrefour" in a common descriptive sense. In these circumstances, the Panel declines to draw an inference of bad faith.

The Complainant would also have the Panel draw an inference of no rights or legitimate interests based on the renown of the Complainant's Mark as well as the Respondent's alleged bad faith. But the alleged bad faith is based solely on the international renown of the Complainant's Mark and no other evidence. And there is a quite plausible legitimate use of the term "carrefour" in this case. Accordingly, the Panel declines to draw an inference of no rights or legitimate interests.

In sum, the Panel acknowledges that the Complainant's CARREFOUR Mark is well-known and may possibly have been targeted in bad faith by the Respondent. However, when reviewing the available evidence as a whole, the Panel considers it just as likely, if not more so, that the Respondent is a small business person who had no knowledge of the Complainant's Mark and who is engaging in modest commercial activity under a domain name that uses the term "carrefour" in its common Québécois meaning and consistent with similar usage by businesses across Québec. See, section 4(c) of the Policy and sections 2.1 and 2.10.1 of the [WIPO Overview 3.0](#). See also, *Dollar Bank, Federal Savings Bank v. Host Master / Jason Duke*, WIPO Case No. [D2016-0701](#) (denying the complaint where the evidence suggested that the respondent had used the term "dollar bank" not to target the complainant, but rather to refer to a service for setting up bank accounts in US dollars); *24 Seven, Inc. v. IT Freelance / 24x7freelancer*, WIPO Case No. [D2016-0936](#) (denying the complaint where the evidence suggested that the respondent had used the term "24x7" not to target the complainant, but rather in its common meaning of "twenty-four hours a day for seven days a week."); *CitiusTech Healthcare Technology Private Limited v. Rex Kersey*, WIPO Case No. [D2022-3773](#) (denying transfer of <citystech.com> where the complainant failed to establish that the respondent would have been aware of the complainant's mark, despite claimed renown, and where the respondent appeared to be using the terms "cities" and "tech" in their common English meanings).

To conclude, the Complainant has the burden of proof regarding bad faith and lack of rights or legitimate interests under the Policy. Given the evidence at hand, the Panel concludes that the Complainant has failed to carry its burden of establishing, on the balance of probabilities, either bad faith or lack of rights or legitimate interests. There is clear evidence that the term "carrefour" is a common French word which has a number of narrower and broader meanings in Québécois French, including "intersection", "crossroads", "place", "meeting or gathering place", and "commercial center or hub". Moreover, the term "carrefour" is very commonly used within these broader meanings in the names of many Québec shopping centers and other businesses. Therefore, it is entirely possible that the Respondent's use of "carrefour" in the disputed domain name was intended as consistent with this common Québécois usage. This seems even more likely given

the Complainant's apparent lack of renown - or even presence - in North America. Further, the Complainant has produced no evidence of any sort of misleading or fraudulent conduct that would support a finding of bad faith registration and use. All of the Complainant's arguments hang entirely of the international renown of the CARREFOUR Mark, renown which likely does not extend to North America. In different cases with different circumstances, the renown of a complainant's mark is sufficient to infer bad faith and lack of rights or legitimate interests as the Complainant argues, but not in the present circumstances.

Accordingly, the Panel concludes that the Complainant has failed to carry its burden on both the second and third elements under the Policy and the Complaint therefore fails.

However, while the Panel denies the Complaint based on the available evidence, it does so without prejudice and with a limited leave to refile should subsequent circumstances (supported by new evidence) shed light on the Respondent's intentions vis-à-vis the Complainant's Mark. The Complainant should bear in mind that this limited right to refile is only for the purpose of providing substantial *bona fide* evidence of bad faith registration and use, if it indeed exists, and not to reargue the case based more or less on the same evidence currently before the Panel.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Anne Gundelfinger/*

**Anne Gundelfinger**

Sole Panelist

Date: February 6, 2023