

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Amire Khaaney, ??

Case No. D2022-4810

1. The Parties

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

The Respondent is Amire Khaaney, ??, Saudi Arabia.

2. The Domain Name and Registrar

The disputed domain name <carrufour.com> 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 December 15, 2022. On December 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 December 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on January 16, 2023. 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 actor in retail with a turnaround of EUR 76 billion in 2018. The Complainant is listed on the index of the Paris Stock Exchange and operates more than 12,000 stores in more than 30 countries worldwide. The Complainant additionally offers travel, banking, insurance, or ticketing services.

The Complainant owns several hundred trademark rights worldwide in the CARREFOUR term, including the following trademarks registered well before the registration of the disputed domain name: International trademark No. 351147, CARREFOUR registered on October 2, 1968, and designating goods in international classes from 01 to 34; and International trademark No. 353849, CARREFOUR, registered on February 28, 1969, designating services in international classes from 35 to 42.

In addition, the Complainant is the owner of numerous domain names including its CARREFOUR trademarks, both within generic and national top-level domains, including <carrefour.com>, which has been registered since 1995.

The disputed domain name was registered on May 11, 2022, and currently displays an inactive website

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

The Complainant contends that the disputed domain name is similar to the point of confusion to the Complainant's earlier, well-known trademarks CARREFOUR. There is only a one-letter difference between the trademark CARREFOUR and the disputed domain name, and the Complainant submits that this minor difference does not prevent the trademark from being easily recognizable within the disputed domain name, and does not discard a finding of confusing similarity.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized by the Complainant to use the disputed domain name, and there is no evidence suggesting that the Respondent is known under the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark CARREFOUR is so well known, that it is inconceivable that the Respondent did not have this trademark in mind when registering the disputed domain name. As to the Respondent's use in bad faith of the disputed domain name the Complainant submits that the concept of bad faith use is not limited to positive action; inaction is within the concept.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that under the Policy, the disputed domain name is confusingly similar to the Complainant's registered trademark CARREFOUR because it consists of an obvious misspelling of this mark. The generic Top-Level Domain ("gTLD") ".com" is typically disregarded under the confusing similarity test.

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name. See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

B. Rights or Legitimate Interests

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent has not produced, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in these proceedings.

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or 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 its website or other online 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.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

Given the circumstances of the case, including the evidence on record of the use of the Complainant's CARREFOUR mark, and the distinctive nature of this mark for the goods and services it has been registered for, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that it chose a domain name, which based on its composition could attract Internet users in a manner that is likely to create confusion for such users. As it is stated in section 3.1.4 of the [WIPO Overview 3.0](#), panels have consistently found that the mere registration of a domain name that is identical or confusingly similar - including in particular domain names comprising typos - to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name does not currently resolve to an active website. However, as first stated in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and repeated in many subsequent decisions under the UDRP: "the concept of a domain name 'being used in bad faith' is not limited to positive action; inaction is within the concept. That is to say, it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith." See section 3.3 of the [WIPO Overview 3.0](#).

Noting that the disputed domain name consists of an obvious misspelling of the Complainant's distinctive and well-known trademark CARREFOUR, that no Response has been filed and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name, and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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, <carrufour.com>, be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: January 31, 2023