

## ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Lisa Richol  
Case No. DCO2022-0033

### 1. The Parties

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

The Respondent is Lisa Richol,<sup>1</sup> France.

### 2. The Domain Name and Registrar

The disputed domain name <carrefour-banque-identifiant.co> is registered with Porkbun LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2022. On April 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 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 April 29, 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 11, 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 May 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 7, 2022.

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<sup>1</sup> The Complaint was originally filed against “Private by Design, LLC”. The identity of the Respondent was subsequently disclosed by the Registrar in response to the Center’s request for registrar verification in connection with the disputed domain name. The amendment to the Complaint lists the person disclosed by the Registrar as the sole Respondent.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on June 9, 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, a company registered in France and the shares of which are listed on the Paris Stock Exchange, is one of the world leader in retail goods sales and has pioneered in 1968 the creation of the first hypermarkets. Its turnover in 2020 was 78 billion euros, and it operates more than 12,000 stores in over 30 countries, with more than 321,000 employees worldwide and 1.3 million visitors daily in its stores. Besides retail, the Complainant offers banking, insurance, ticketing, and travel services. Its banking services exist for more than thirty years.

The Complainant owns a very large portfolio of trademarks containing the distinctive element CARREFOUR, including the French trademarks CARREFOUR BANQUE & ASSURANCE, registered under No. 3585950 on July 2, 2008 and BANQUE CARREFOUR, registered under No. 3585968 on July 2, 2008 (together hereinafter referred to as: "the Mark").

The Complainant also owns the <carrefour.com> domain name and many other domain names related to its banking activities, incorporating the element "carrefour", such as the <carrefour-banque.com> and <carrefour-banque.fr> domain names.

The disputed domain name was registered on October 30, 2021.

At the time of the filing of the Complaint and this decision, the disputed domain name resolves to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

- (i) The Complainant submits that the disputed domain name reproduces the Complainant's trademarks CARREFOUR, in which the Complainant has rights, and is confusingly similar to the Mark, insofar as the disputed domain name contains the CARREFOUR BANQUE elements of the Mark.
- (ii) The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Furthermore, the Complainant contends it never authorized the Respondent to use the Mark in any manner.
- (iii) The Complainant submits that the Respondent has registered the disputed domain name in bad faith and alleges that the Respondent had knowledge of the Mark when registering the disputed domain name.
- (iv) The Complainant submits that by its passive holding, the Respondent is using the disputed domain name in bad faith.
- (v) The Complainant requests that the disputed domain name be transferred to the Complainant.

##### **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Procedural Aspects – Failure to Respond**

As aforementioned, no Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain name have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

### **6.2. Requirements of Paragraph 4(a) of the Policy**

#### **A. Identical or Confusingly Similar**

In comparing the Marks with the disputed domain name, it is evident that the latter contains the Mark, less the "& ASSURANCE" element, followed by the country code Top-Level Domain ("ccTLD") ".co".

It is well established that a ccTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity.

The Panel finds that placing the term "identifiant" ("identifier" in French) after the elements "carrefour" and "banque" is not capable of preventing a finding of confusing similarity, insofar as the Mark remains sufficiently recognizable within the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.8 and 1.9.

The Panel finds that the disputed domain name is confusingly similar to the Mark.

Thus, the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

Although a complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that with regard to paragraph 4(a)(ii) of the Policy, this could result in the often impossible task of proving a negative proposition, requiring information that is primarily, if not exclusively, within the knowledge of a respondent.

Thus, the consensus view of UDRP panels is that paragraph 4(c) of the Policy shifts the burden of production of evidence to the respondent to come forward with evidence of rights or legitimate interests in a domain name, once the complainant has made a *prima facie* showing, as the Panel believes the

Complainant has made in this case. See *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

As previously noted, the Respondent offered no reason for selecting the disputed domain name. There is no evidence that the Respondent is known by the disputed domain name.

The disputed domain name resolves to an inactive page.

No information is provided on any rights or legitimate interests the Respondent may have in the disputed domain name.

To counter any notion that the Respondent has such rights or legitimate interests, the Complainant has argued that the Respondent received (i) no license from the Complainant and (ii) no authorization from the Complainant to register or use the disputed domain name.

Furthermore, the nature of the disputed domain name, incorporating the Mark, with the French term “identifiant”, carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent.

Thus, the Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

As noted above, the Respondent has failed to provide any exculpatory information or persuasive reasoning that might have led the Panel to question the Complainant’s arguments that the Respondent acted in bad faith by creating confusion to the detriment of the Complainant by registering the disputed domain name confusingly similar to the Mark, which can be considered as “cybersquatting”.

It has been established in prior UDRP decisions that where the respondent knew or should have known of a trademark prior to registering the disputed domain name, such conduct may be, in certain circumstances, sufficient evidence of bad faith registration and use. See *Weetabix Limited v. Mr. J. Clarke*, WIPO Case No. [D2001-0775](#).

In this case, given that the CARREFOUR element of the Mark is distinctive and well-known, as was recognized in a number of UDRP decisions (see for instance *Carrefour v. Yunjinhua*, WIPO Case No. [D2014-0257](#); *Carrefour v. Park KyeongSook*, WIPO Case No. [D2014-1425](#); *Carrefour v. VistaPrint Technologies Ltd.*, WIPO Case No. [D2015-0769](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#); *Carrefour v. Jane Casares, NA*, WIPO Case No. [D2018-0976](#); *Carrefour v. Jean-Pierre Andre Preca*, WIPO Case No. [D2018-2857](#); *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2610](#) and *Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#)), the Panel finds that it is impossible to believe that the Respondent, who appears to be located in France, chose to register the disputed domain name randomly with no knowledge of the “carrefour” element of the Mark. See *Barney’s Inc. v. BNY Bulletin Board*, WIPO Case No. [D2000-0059](#); *Kate Spade, LLC v. Darmstadter Designs*, WIPO Case No. [D2001-1384](#), citing *Cellular One Group v. Paul Brien*, WIPO Case No. [D2000-0028](#); and *SembCorp Industries Limited v. Hu Huan Xin*, WIPO Case No. [D2001-1092](#).

In addition, it is well established that the mere passive holding of a domain name may in appropriate circumstances be evidence not only of bad faith registration, but also of bad faith use. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#); *Mary-Lynn Mondich and American Vintage Wine Biscuits, Inc. v. Shane Brown, doing business as Big Daddy’s Antiques*, WIPO Case No. [D2000-0004](#); and *Alitalia –Linee*

*Aeree Italiane S.p.A v. Colour Digital*, WIPO Case No. [D2000-1260](#).

Prior UDRP panels have also held that bad faith use of a domain name by a respondent may also result from the fact its good faith use is in no way plausible, considering the specificity of the activity (see *Audi AG v. Hans Wolf*, WIPO Case No. [D2001-0148](#)). The Panel finds it is indeed not possible to imagine any plausible future active use of the disputed domain name that would not be illegitimate, considering the specificity of the Complainant's banking activity.

Moreover, in this case, the Respondent took active steps to hide its identity and provided a false telephone number. Although using a proxy or privacy service to hide the identity of the registrant is not *per se* conclusive of bad faith registration and use (see *Trinity Mirror Plc and MGN Ltd. v. Piranha Holdings*, WIPO Case No. [D2008-0004](#)), the Panel notes that the fact that the Respondent used a privacy service to hide its identity and contact details prevented the Complainant from contacting it. Prior UDRP panels have held that deliberate concealment of identity and contact information may, in certain circumstances, be indicative of registration in bad faith (see *TTT Moneycorp Limited v. Diverse Communications*, WIPO Case No. [D2001-0725](#), and *Schering Corporation v. Name Redacted*, WIPO Case No. [D2012-0729](#); see also [WIPO Overview 3.0](#) section 3.2.1).

Finally, some UDRP panels have held that in certain circumstances, registrants of domain names have an affirmative duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and that contravening that duty may constitute bad faith. See Policy, paragraph 2(b); *Nike, Inc. v. B. B. de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

The Panel concludes in the light of all these circumstances that the Respondent's registration and use of the disputed domain name constitute bad faith, and that the requirement of paragraph 4(a)(iii) of the Policy is also satisfied 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, <carrefour-banque-identifiant.co>, be transferred to the Complainant.

*/Louis-Bernard Buchman/*

**Louis-Bernard Buchman**

Sole Panelist

Date: June 22, 2022