

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Eric

Case No. DDO2022-0001

1. The Parties

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

The Respondent is Eric, Italy.

2. The Domain Name and Registrar

The disputed domain name <carrefour-banque.do> is registered with NIC.DO (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 22, 2022. On March 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 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 6, 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 April 6, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Domain Name Dispute Resolution Policy for “.DO” (the “Policy”), the Rules for the Domain Name Dispute Resolution Policy for “.DO” (the “Rules”), and the WIPO Supplemental Rules for the 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 April 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 17, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on May 20, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on May 30, 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.

3.1 Language of Proceedings

The Complaint was filed in English.

In accordance with paragraph 11 of the Rules, the language of the proceedings is to be Spanish, unless otherwise agreed by the Parties, and subject to the Panel's decision, considering the circumstances of the case.

In the Complaint, the Complainant requested English to be the language of the proceedings. The Respondent did not comment on the Complainant's request regarding the language of proceedings and did not file a Response. Therefore, there is no agreement between the parties on the language of the proceedings.

However, to preserve the spirit of the Policy, which is to provide an agile, expedited, and low-cost proceeding, and considering the circumstances of the case, the Panel decides that, in accordance with the powers granted under paragraph 10 of the Rules, the language of the proceedings shall be English.

The Panel finds that accepting the Complaint as submitted in English and proceeding to the issuance of a Decision in English would be fair and equitable to the Parties.

4. Factual Background

The Complainant is a worldwide leader in retail and a pioneer of the hypermarket concept since 1968, also offering travel, banking, insurance, and ticketing services.

The Complainant owns, among others, the following trademark registrations:

Mark	Registration no.	Registration Date	Class	Jurisdiction
CARREFOUR	351147	October 2, 1968	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34	International Registration
CARREFOUR	353849	February 28, 1969	35, 36, 37, 38, 39, 40, 41, 42	International Registration
BANQUE CARREFOUR	3585968	July 2, 2008	36	France
CARREFOUR BANQUE & ASSURANCE	3585950	July 2, 2008	36	France

The Complainant is the owner of numerous domain names, which are identical to the CARREFOUR trademarks and similar to the BANQUE CARREFOUR and CARREFOUR BANQUE & ASSURANCE trademarks, such as <carrefour.com>, and <carrefour-banque.fr>, among others.

The disputed domain name was registered on October 16, 2021, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant argued the following:

That it is listed on the index of the Paris Stock Exchange.

That it operates more than 12,000 stores in more than 30 countries worldwide, has more than 384,000 employees, and receives around 1,3 million daily visitors in its stores.

That it is famous on the Internet, where the Complainant's Facebook page currently has been liked by more than 11 million Internet users.

I. Identical or Confusingly Similar

That previous panels appointed under the Uniform Domain Name Dispute Resolution Policy ("UDRP") have found that the CARREFOUR trademark is well known.

That the disputed domain name is highly similar to the prior, well-known trademarks CARREFOUR.

That the disputed domain name includes the generic term "banque". That, according to established case law, the addition of a generic term to a well-known trademark in a disputed domain name does not diminish the finding of confusing similarity.

That the country-code Top-Level Domain ("ccTLD") ".do" is not significant in determining whether the disputed domain name is identical or confusingly similar to the Complainant's trademarks.

That previous Panels have considered that the incorporation of a well-known trademark in its entirety may be sufficient to establish that the domain name is identical or confusingly similar to the Complainant's trademark.

That the disputed domain name imitates the Complainant's trademarks CARREFOUR, BANQUE CARREFOUR, and CARREFOUR BANQUE & ASSURANCE. That, therefore, the disputed domain name is identical or highly similar to said trademarks.

II. Rights or Legitimate Interests

That the Respondent should be considered as not having rights or legitimate interests regarding the disputed domain name.

That the Complainant has performed searches and has not found a CARREFOUR or CARREFOUR BANQUE trademark owned by any other person or entity than the Complainant. That, therefore, the Respondent has not acquired any trademark rights to the CARREFOUR or CARREFOUR BANQUE trademark.

That the Respondent is not commonly known by the disputed domain name, as an individual, business, or other organization.

That the Complainant has not granted any authorization to the Respondent to use the trademark CARREFOUR, which is strong evidence that the Respondent lacks legitimate interests.

That the Respondent has not used or prepared to use the disputed domain name in relation to a *bona fide* offering of goods and services. That, on the contrary, the disputed domain name is inactive.

That the burden of proof is on the Respondent to establish its rights to or legitimate interests in the disputed domain name.

III. Registered or Used in Bad Faith

That the Respondent has registered and is using the disputed domain name in bad faith.

That the Complainant's trademarks are so well known that it is inconceivable that the Respondent ignored the Complainant or its prior rights to the CARREFOUR, BANQUE CARREFOUR and CARREFOUR BANQUE & ASSURANCE trademarks when registering the disputed domain name.

That the Complainant enjoys a long-lasting worldwide reputation, which has been established by panels appointed under the UDRP for years.

That the Respondent had the Complainant's name and trademark in mind when registering the disputed domain name.

That a simple online search shows results only related to the Complainant.

That, at the very least, the Complainant knew or should have known that, when registering the disputed domain name, the Respondent would violate the Complainant's prior rights.

That the Respondent likely chose the disputed domain name because of its identity or similarity with the Complainant's trademarks.

That the Respondent acquired the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's trademarks.

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

That previous panels appointed under the UDRP have established that knowledge of the Complainant's intellectual property rights, at the time of registration of the disputed domain name, proves bad faith registration.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (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 or is being used in bad faith.

Given the Respondent's failure to submit a Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations according to paragraphs 5(e), 14(a), and 15(a) of the Rules, and shall draw such inferences it considers appropriate under paragraph 14(b) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

This Panel points out the similarities between the and the UDRP since it is based upon, and is a variant of the UDRP. Therefore, to benefit from interpretation criteria applicable to the existing circumstances, this Panel will rely on previous decisions issued within the framework of the UDRP and the jurisprudence reflected in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”).

A. Identical or Confusingly Similar

The Complainant has filed evidence showing that it owns registrations for the trademark CARREFOUR, among other places, in Italy, where the Respondent appears to reside.

The disputed domain name is confusingly similar to the Complainant’s trademark CARREFOUR, as it incorporates said trademark entirely, with the addition of the term “banque”.

Generally, panels appointed under the UDRP have found that the inclusion of additional terms in a disputed domain name does not prevent a finding of confusing similarity under the first element (see sections 1.7, and 1.8 of the WIPO Overview 3.0”). This is so in the present case because the term “banque” does not prevent the trademark CARREFOUR from being recognizable in the disputed domain name.

The addition of the ccTLD “.do” to the disputed domain name is immaterial for purposes of assessing confusing similarity because it is a technical requirement of the Domain Name System (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *International Business Machines Corporation v. chenaibin*, WIPO Case No. [D2021-0339](#); and *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues*, WIPO Case No. [D2019-0578](#)).

Therefore, the first element of the Policy has been met.

B. Rights or Legitimate Interests

In accordance with paragraph 4(c) of the Policy, the following examples are circumstances in which the Respondent may have rights to, or legitimate interests in, the disputed domain name:

- (i) before any notice to the Respondent of the dispute, the 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 (as individual, business, or other organization) 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 noncommercial 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 Complainant has submitted enough evidence to prove that it is the owner of registrations for the CARREFOUR trademark in several countries, including Italy, where the Respondent appears to reside.

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any authorization to the Respondent to use its trademark CARREFOUR, and that the Respondent has not been commonly known by the disputed domain name (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Associated Newspapers Limited v. Manjeet Singh*, WIPO Case No. [D2019-2914](#)).

Therefore, the Complainant has made a *prima facie* case asserting that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Respondent did not submit any evidence or arguments to challenge the Complainant's assertions.

In light of the above, the second element of the Policy has been fulfilled.

C. Registered or Used in Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular, but without limitation, shall be evidence of registration or use in bad faith:

- (i) circumstances indicating that the Respondent has registered or the Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registrations to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or locations or of a product or service on its websites or locations.

It is important to point out that paragraph 4(b) of the Policy states that bad faith can be found in either the registration or the use of the disputed domain name.

As previously stated, the Complainant owns several trademark registrations for the CARREFOUR trademark in numerous countries, including Italy, where the Respondent appears to reside.

Given the well-known status of said trademark, this Panel finds that the Respondent knew or should have known the Complainant and its trademark CARREFOUR at the time of registration of the disputed domain name, which in the circumstances of this case constitutes bad faith registration under the Policy (see section 3.2.2 of the WIPO Overview 3.0).

The fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's well-known trademark CARREFOUR, shows that the Respondent has targeted the Complainant, which in the circumstances of this case constitutes opportunistic bad faith (see section 3.2.1 of the WIPO Overview 3.0; see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#)).

Previous panels appointed under the UDRP have found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the WIPO Overview 3.0). This is so in the present case.

Under the Policy, the findings of registration of a disputed domain name in bad faith are enough to determine that the third element has been fulfilled. However, due to the circumstances of this case, the Panel will proceed to analyze the use of the disputed domain name.

Notwithstanding that the disputed domain name resolves to an inactive website and appears to be inactive, the consensus view among panels appointed under the Policy is that the fact that a domain name is not active does not prevent a finding of bad faith (see section 3.3 of the WIPO Overview 3.0, “From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding”); see also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and “*Dr. Martens” International Trading GmbH and “Dr. Maertens” Marketing GmbH v. Godaddy.com, Inc.*, WIPO Case No. [D2017-0246](#)).

In the present case, the following facts have been found:

- That the trademark CARREFOUR is well known.
- That the trademark CARREFOUR refers directly and specifically to the Complainant’s company name, which is one of the most well-known supermarket chains in the world, with more than 12,000 stores in more than 30 countries.
- That the disputed domain name incorporates the CARREFOUR trademark and company name in their entirety.
- That the Respondent has not filed any evidence or arguments to explain why he registered the disputed domain name.

In light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate under the Policy (see *Telstra Corporation Limited v. Nuclear Marshmallows, supra*, and *CBS Broadcasting Inc. v. Dennis Toeppen*, WIPO Case No. [D2000-0400](#)).

Therefore, the third element of the Policy has been met.

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.do> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: June 14, 2022