

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Lucia Barbosa

Case No. D2023-0763

1. The Parties

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

The Respondent is Lucia Barbosa, Brazil.

2. The Domain Name and Registrar

The disputed domain name <carrefoursolucoesagora.com> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2023. On February 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 2023, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 2023, 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 the same day.

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 March 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2023.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on April 11, 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 leader in retail and a pioneer of the concept of hypermarkets since 1968. With a turnover of EUR 76 billion in 2018, 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 with more than 384,000 employees worldwide and 1.3 million daily unique visitors in its stores and is considered a major and well-known worldwide leader in retail.

The Complainant also offers travel, banking, insurance, and ticketing services.

The Complainant owns several hundred trademark rights worldwide in the CARREFOUR term. The earliest registration of the CARREFOUR mark is under International registration number 351147, registered on October 2, 1968.

The Complainant is also the owner of numerous domain names identical to its trademarks, both within generic and country code top-level domains.

The Complainant's social media pages are currently "liked" or "followed" by more than 11 million Internet users.

The Respondent registered the disputed domain name <carrefoursolucoesagora.com> on January 30, 2023, and it resolves to a website displaying a warning that the site is deceptive.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- a) the Complainant submits that the disputed domain name is highly similar to the earlier well-known trademarks CARREFOUR. Indeed, the disputed domain name includes the earlier trademark CARREFOUR in attack position, followed by the generic terms "solucoes" and "agora".
- b) The Respondent has no rights or legitimate interests in respect of the disputed domain name since:
 - i) the Complainant performed searches and found no CARREFOUR trademark owned by the Respondent.
 - ii) the Complainant has found no evidence whatsoever that the Respondent is known by the disputed domain name or has been commonly known by the disputed domain name as an individual, business, or other organization. The Complainant argues that it has filed the present Complaint soon after the registration of the disputed domain name, intending to not allow the Respondent to be commonly known by the disputed domain name.
 - iii) The Complainant asserts that the Respondent has acquired no trademark in the names CARREFOUR which could have granted the Respondent rights in the disputed domain name.
 - iv) The Complainant asserts that it has not authorized the use of the terms "carrefour" in the disputed domain name in any manner or form.
 - v) The Complainant puts forth that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services.

- vi) The disputed domain name resolves to a page stating that the content has been reported for suspected phishing.
- c) The disputed domain name was registered and is being used in bad faith. The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, for the following reasons:
 - i) The Complainant submits that the Complainant and its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights on the term CARREFOUR.
 - ii) The Complainant argues that the Respondent had the Complainant's name and trademark in mind when registering the domain name and the choice of domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks.
 - iii) The Complainant argue that it is highly likely that the Respondent chose the domain name because of its identity with a trademark in which the Complainant has rights and legitimate interest. This was most likely done in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the Respondent's site. Such a domain name does not provide a legitimate interest under the Policy.
 - iv) The Complainant thus states that the Respondent acquired and is using the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's earlier marks.
 - v) The Complainant's CARREFOUR trademark registrations significantly predate the registration date of the disputed domain name.
 - vi) The current use of the domain name, in connection with a page showing a security warning, may not be considered a good faith use.

In light of all the elements above, the Complainant contends that the disputed domain name was registered and is being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

Substantive Matters

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, 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;
- (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 is highly similar to the earlier well-known trademark CARREFOUR. The disputed domain name includes the earlier trademark CARREFOUR in attack position, followed by the terms “solucoes” and “agora”.

It is well established case law that the addition of a term to a well-known trademark in a domain name does nothing to diminish the likelihood of confusion arising from that domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1). The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed nor given its consent to the Respondent to use or register any domain name incorporating the Complainant’s trademarks.

The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain name was registered and has been used in bad faith.

The Complainant and its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights and it is highly likely that the Respondent chose the disputed domain name because of its identity with or similarity to the trademark.

Furthermore, the Respondent’s use of the disputed domain name to display virus alerts and potentially infecting Internet users is under the circumstances of this case clear evidence of bad faith.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: May 2, 2023