

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Andre Luis
Case No. D2024-2889

1. The Parties

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

Respondent is Andre Luis, Brazil.

2. The Domain Names and Registrar

The disputed domain names <carrefour.fun> and <carrefour.site> are registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 17, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 19, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 23, 2024.

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 Respondent of the Complaint, and the proceedings commenced on July 23, 2024.

Respondent sent an email communication to the Center on July 28, 2024, stating “Pode encerrar a disputa, não tenho interesse no domínio” in Portuguese which according to Google Translate is the equivalent of “You can close the dispute, I have no interest in the domain.”

On July 29, 2024, the Center sent an email to the Parties, forwarding Respondent's email and noting that if the Parties were interested in exploring settlement options, Complainant should submit a request for suspension by August 5, 2024. However, Complainant did not request a suspension for settlement talks, but on July 29, 2024, Complainant replied to Respondent in an email with a copy to the Center, stating in Portuguese "Bom dia, Podemos encerrar esta disputa se você assinar este documento concordando em transferir os nomes de domínio para o reclamante. Por favor, devolva-nos este documento assinado. Obrigado," which translates to English as "Good morning, we can close this dispute if you sign this document agreeing to transfer the domain names to the Complainant. Please return this signed document to us. Thank you,".

In accordance with the Rules, paragraph 5, the due date for Response was August 12, 2024. Respondent did not submit any formal response by the due date. Accordingly, the Center sent the commencement of panel appointment process on August 14, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on September 6, 2024. 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

Complainant states in its Complaint, and provides evidence in the respective Annexes attached to its Complaint sufficient to support that:

Complainant is a worldwide leader in retail, having pioneered the concept of hypermarkets since 1968, providing its retail store services under the trademark CARREFOUR (the "CARREFOUR Mark"). Complainant operates over 12,000 stores in more than thirty countries worldwide. With more than 384,000 employees worldwide and 1.3 million daily unique visitors in its stores. Complainant is listed on the index of the Paris Stock Exchange (CAC 40) and in 2018 had an annual turnaround of EUR 76 billion.

Complainant owns several hundred trademark registrations worldwide incorporating the CARREFOUR Mark, including:

International trademark No. 351147, CARREFOUR registered on October 2, 1968, for a range of goods in International Classes 1 through 34, and designating Benelux Office for Intellectual Property; Italy; Monaco; and Spain; and

International trademark No. 353849, CARREFOUR, registered on February 28, 1969, for a range of services in International Classes 35 through 42, and designating Benelux Office for Intellectual Property; Croatia; Czech Republic; Estonia; Hungary; Italy; Latvia; Liechtenstein; Lithuania; North Macedonia; Monaco; Morocco; Montenegro; Slovakia; Slovenia; Spain; and San Marino.

Complainant owns numerous domain names reflecting its CARREFOUR Mark, both within generic and national Top-Level Domain names in order to promote its services, including its official domain name <carrefour.com> created on October 25, 1995. Complainant operates a website accessible through its official domain name at the URL "www.carrefour.com" where it prominently uses the CARREFOUR Mark and features general information regarding its various retail store products and services (the "Official CARREFOUR Mark website"). Complainant's fame and notoriety is also shown in annexed evidence of Complainant's use of the CARREFOUR Mark on the Internet through social media, where Complainant's Facebook page is currently "liked" by more than 11 million Internet users.

Each of the disputed domain names was registered on June 28, 2024. At the time of filing the Complaint, the disputed domain <carrefour.site> resolved to a website displaying Complainant's CARREFOUR Mark and

providing an introduction related to a third-party company and the disputed domain name <carreffour.fun> was inactive. Each disputed domain name resolves to an error page and is inactive at the time of this Decision.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names. Complainant holds numerous trademark registrations for the CARREFOUR Mark across many jurisdictions around the world. Complainant shows in its annexes that it owns registered trademark rights, including those set out in Section 4 above. Complainant further relies on the goodwill and recognition that has been attained under the CARREFOUR Mark, which has become a well-known distinctive identifier for its products and services. Complainant shows that its CARREFOUR Mark are well-recognized by the public around the world.

Complainant asserts that the disputed domain names are confusingly similar to the CARREFOUR Mark because each of the disputed domain names clearly incorporates Complainant's CARREFOUR Mark in its entirety, although intentionally misspelled by adding a second letter "f" in each instance and followed by the generic Top-Level Domain ("gTLD") ".fun" and ".site", respectively, none of which is sufficient to prevent a finding of confusing similarity.

Complainant submits that there are no rights or legitimate interests held by Respondent in respect of the disputed domain names. Respondent is not commonly known by either of the disputed domain names, nor does Respondent have any authorization or license from Complainant to use the CARREFOUR Mark or to register either of the disputed domain names.

Complainant contends that the fact that each disputed domain name contains an intentionally misspelled version of the CARREFOUR Mark together with a gTLD shows that the aim of Respondent in each case is to confuse Internet users searching for Complainant's products or services to create a false association between Complainant's CARREFOUR Mark and each of the disputed domain names.

Respondent is not making a legitimate noncommercial or fair use of any of the disputed domain names. The disputed domain names have not been actively used by Respondent. Respondent's non-use of the disputed domain names does not confer a legitimate interest.

Complainant contends that the disputed domain names were registered and are being used in bad faith. First, Complainant asserts that the CARREFOUR Mark is recognized worldwide and therefore Respondent must have been aware that they would be registered as a trademark in various jurisdictions worldwide. Complainant's earliest CARREFOUR Mark registration also predates the registration of all of the disputed domain names by decades. Complainant submits, therefore, that Respondent knowingly registered each of the disputed domain names in bad faith with the intention of targeting Complainant's CARREFOUR Mark to trade off the goodwill and reputation attaching to Complainant's CARREFOUR Mark. Complainant contends that Respondent's use of the disputed domain names is to capitalize on the reputation of Complainant's trademark by diverting Internet users seeking Complainant's services to its websites for financial gain, by intentionally creating a likelihood of confusion with Complainant's registered trademarks as to the source, sponsorship, affiliation, or endorsement of its websites and/or the goods and services offered or promoted through the websites. Complainant contends, therefore, that Respondent's conduct amounts to registration and use of each of the disputed domain names in bad faith.

B. Respondent

Respondent did not submit a formal Response in reply to Complainant's contentions.

6. Discussion and Findings

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

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of the probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

A. Identical or Confusingly Similar

Ownership of a nationally registered trademark constitutes prima facie evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant claims trademark rights in the CARREFOUR Mark for its retail store related goods and services dating back historically to 1968, and its registrations above for the CARREFOUR Mark dating back to that same year. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting trademark registration documents in the name of Complainant and therefore, Complainant has demonstrated it has rights in the CARREFOUR Mark. See, *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

With Complainant’s rights in the CARREFOUR Mark established, the remaining question under the first element of the Policy is whether each of the disputed domain names is identical or confusingly similar to Complainant’s CARREFOUR Mark. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a “reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name”. [WIPO Overview 3.0](#), section 1.7.

Prior UDRP panels have held the fact that a disputed domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other terms to such marks, “whether descriptive, geographical, pejorative, meaningless, or otherwise”. [WIPO Overview 3.0](#), section 1.8; see also, *Carrefour SA v. Privacy service provided by Withheld for Privacy ehf / Alan first, Alan Design*, WIPO Case No. [D2021-2671](#); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#).

A side-by-side comparison between each of the disputed domain names and Complainant’s Mark shows that each disputed domain name is confusingly similar to the CARREFOUR Mark. Each disputed domain name

clearly incorporates Complainant's CARREFOUR Mark in its entirety, although intentionally misspelled by adding a second letter "f" in each instance, and followed by the gTLD ".fun" and ".site", respectively.

Prior UDRP panels have found the gTLD, being viewed as a standard registration requirement, may typically be disregarded under the paragraph 4(a)(i) analysis. See, [WIPO Overview 3.0](#), section 1.11.1; see also *L'Oréal v Tina Smith*, WIPO Case No. [D2013-0820](#).

Complainant contends that the disputed domain names must be considered confusingly similar to Complainant's Mark because the duplicate "f" reconfiguration noted above is a purposeful misspelling of Complainant's CARREFOUR Mark. Prior UDRP panels have held that a deliberate misspelling of a trademark registered as a domain name which is intended to confuse Internet users, must be confusingly similar by design. See [WIPO Overview 3.0](#), section 1.9; See also *Allstate Insurance Company v. Rakshita Mercantile Private Limited*, WIPO Case No. [D2011-0280](#); *Humana Inc. v. Cayman Trademark Trust*, WIPO Case No. [D2006-0073](#).

Based on the above, this Panel finds that these additions do not prevent a finding of confusing similarity between each disputed domain name and Complainant's well-known CARREFOUR Mark. Accordingly, the Panel finds the disputed domain names each confusingly similar to the CARREFOUR Mark in which Complainant has rights and Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also, *The American Automobile Association, Inc. v. Privacy--Protect.org et al.*, WIPO Case No. [D2011-2069](#).

Paragraph 4(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The first example, under paragraph 4(c)(i), is where "before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services".

Here, the annex to the Complaint shows that attempts to access a website using the disputed domain names generated one website displaying Complainant's CARREFOUR Mark and providing an introduction related to a third-party company, and one error page showing the disputed domain name <carreffour.fun> is inactive, which Complainant contends defeats any claim of use of the disputed domain names in connection with a bona fide offering of goods or services. Respondent cannot avail himself of the benefit of paragraph 4(c)(i). [WIPO Overview 3.0](#), section 2.13; see also, *Carrefour SA. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Ben Luis*, WIPO Case No. [D2021-2910](#); *Apple Computer, Inc. v. PrivacyProtect.org / PrivateRegistrations Aktien Gesellschaft*, WIPO Case No. [D2012-0879](#)

Paragraph 4(c)(ii) provides another scenario in which a respondent may demonstrate rights or legitimate interests in a disputed domain name by showing that the respondent is commonly known by the domain name. Complainant states that Respondent is not related in any way to Complainant, does not conduct any activity for, nor has any business with Respondent. Similarly, Complainant granted no license or authorization to Respondent to make any use of Complainant's CARREFOUR Mark or apply for registration of the disputed domain names. Complainant has never authorized Respondent to use the CARREFOUR Mark, or any marks confusingly similar thereto for any purpose, including as a domain name. Prior UDRP panels have found a lack of rights or legitimate interests under the second element of the Policy based on such circumstances. See, e.g., *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. [D2005-0179](#); *Guerlain S.A. v. H I Investments*, WIPO Case No. [D2000-0494](#).

Complainant also shows that Respondent is not commonly known by the disputed domain names because the Registrar identified the underlying registrant information in its verification process as "Andre Luis", of Brazil, which Complainant named as Respondent in its amended Complaint. Respondent does not bear any resemblance to either disputed domain name whatsoever. Thus, there is no evidence in this case to suggest that Respondent is commonly known by either disputed domain name, that it is licensed or otherwise authorized to use Complainant's trademark, or that it has acquired any trademark rights relevant thereto. As such, the Panel finds this sub-section of the Policy is of no help to Respondent, and the facts presented here support a lack of rights or legitimate interests in the disputed domain name. See *Confédération nationale du crédit mutuel v. Yu Ke Rong*, WIPO Case No. [D2018-0948](#); *Expedia, Inc. v. Dot Liban, Hanna El Hinn*, WIPO Case No. [D2002-0433](#).

Complainant's evidence of use in the Complaint as amended, also supports Complainant's contention that Respondent cannot claim prior rights or legitimate interests in the disputed domain names as the CARREFOUR Mark precedes the registration of the disputed domain names by decades. See [WIPO Overview 3.0](#), Section 2.1.

In light of the above, and with no formal Response or other submission in this case to rebut Complainant's assertions and evidence, the Panel finds that the facts of this case demonstrate that Respondent has no rights or legitimate interests in the disputed domain names. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Finally, Complainant must prove, by a preponderance of the evidence, that each disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends and has shown in numerous cases cited and the annexes to its Complaint that Complainant is well known throughout the world and has an undisputable reputation in the retail store goods and services industry. Many UDRP panels have previously acknowledged Complainant's reputation and the CARREFOUR Mark to be "well-known" or "famous" worldwide, making it unlikely that Respondent was not aware of Complainant's rights. See, e.g., *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#), *Carrefour v. Tony Mancini, USDIET Whoisguard, Inc.*, WIPO Case No. [D2015-0962](#); and *Carrefour SA v. Eric Langlois*, WIPO Case No. [D2007-0067](#).

Complainant further contends that there is no explanation to register the disputed domain names other than to target Complainant. Given its CARREFOUR Mark is well-known worldwide, and each of the disputed domain names incorporates its identical term in its entirety, the Panel finds bad faith registration based on Respondent's actual knowledge of the CARREFOUR Mark given its widespread recognition, including Brazil where Respondent is purportedly located. See *Carrefour v. Registration Private, Domains by Proxy LLC / Nisar Ahmad Zafar*, WIPO Case No. [D2016-2506](#).

Prior UDRP panels under similar circumstances have found that where a well-known mark of worldwide reputation has been in use and registered for many years before Respondent registered the disputed domain names, it would be implausible to believe that Respondent selected and was using the disputed domain names for any purpose other than to trade on Complainant's trademark rights and reputation, establishing a fact pattern that repeatedly has been held to constitute bad faith registration. See *Alstom v. Domain Investments LLC*, WIPO Case No. [D2008-0287](#); see also *Houghton Mifflin Co. v. Weathermen, Inc.*, WIPO Case No. [D2001-0211](#).

Prior UDRP panels have also held that a respondent's selection of a disputed domain name that comprises the complainant's mark in its entirety demonstrates a respondent's actual knowledge to support a finding of bad faith in registering and using the domain name. See, e.g., *Lloyds Bank Plc v. Marc Wiese*, WIPO Case No. [D2015-0914](#); see also, *Heineken Brouwerijen B.V. v Mark Lott*, WIPO Case No. [D2000-1487](#). Moreover, panels have consistently 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 [WIPO Overview 3.0](#), section 3.1.4.

Given the widespread recognition of Complainant's CARREFOUR Mark, including Brazil, where Respondent is purportedly located, and decades of use of the CARREFOUR Mark prior to Respondent's registration of both disputed domain names on June 28, 2024, the intentional misspelling in the configuration of each disputed domain name, the ultimate effect of any use of each disputed domain name will be to cause confusion with Complainant and its CARREFOUR Mark. Respondent's use and registration of the disputed domain names, therefore, must be considered to be in bad faith. See *Empresa Brasileira de Telecomunicações S.A Embratel v. Kevin McCarthy*, WIPO Case No. [D2000-0164](#).

Complainant also points out that this combination of facts has been held by prior UDRP panels as supporting a finding of bad faith use. See *Carrefour SA. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Ben Luis*, *supra*.

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain names in bad faith and 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 names <carrefour.fun> and <carrefour.site> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: September 16, 2024