

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Qin Li
Case No. D2022-0991

1. The Parties

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

Respondent is Qin Li, Anguilla, United Kingdom.

2. The Domain Name and Registrar

The Disputed Domain Name <carrefours.shop> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 23, 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 24, 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 named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on March 25, 2022, 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 March 28, 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 Respondent of the Complaint, and the proceedings commenced on April 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 25, 2022.

The Center appointed Richard W. Page as the sole panelist in this matter on April 28, 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

Complainant is a worldwide leader in retail and was a pioneer of the concept of hypermarkets back in 1968. With a turnaround of EUR 76 billion in 2018, Complainant is listed on the index of the Paris Stock Exchange (CAC 40). Complainant operates more than 12,000 stores in more than 30 countries worldwide. With more than 384,000 employees and 1.3 million daily unique visitors in its stores, Complainant is a major and well known worldwide leader in retail. Complainant additionally offers travel, banking, insurance, and ticketing services.

Complainant owns several hundred trademark registrations worldwide using the primary element of “Carrefour” (hereinafter collectively the “CARREFOUR Mark”). In particular, Complainant is the owner of the following trademarks (among others) registered well before the registration of the Disputed Domain Name:

International Registration No. 351147 for CARREFOUR, registered on October 2, 1968, duly renewed, designating goods in international classes 1-34;

International Registration No. 353849 for CARREFOUR, registered on February 28, 1969 duly renewed, designating services in international classes 35-42.

Complainant is also the owner of numerous domain names incorporating the CARREFOUR Mark, both within generic and country code Top-Level Domains (“TLDs”). For instance, <carrefour.com> has been registered since 1995.

The Disputed Domain Name was registered on December 29, 2021. At the time of filing the Complaint, the Disputed Domain Name resolved to a website offering various products for sale under the name “Adolily”.

5. Parties’ Contentions

A. Complainant

Complainant submits that the Disputed Domain Name is identical to or confusingly similar with the CARREFOUR Mark, pursuant to paragraph 4(a)(i) of the Policy.

Complaint submits that the CARREFOUR Mark enjoys a wide-spread, continuous reputation as seen by a large number of prior UDRP decisions confirming that the CARREFOUR Mark is well known.

Complainant further submits its fame and notoriety are also evidenced on the Internet. Complainant’s Facebook page is currently “liked” by more than 11 million Internet users.

Complainant further submits that the Disputed Domain Name is confusing similar to the well known CARREFOUR Mark and incorporates the entirety of the CARREFOUR Mark, together with a final “s”. The additional letter “s” does not avoid a finding of confusing similarity as it can be considered a misspelling of the CARREFOUR Mark rightfully owned by Complainant, according to section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Complainant further submits that the use of lower-case letters on the one hand and the addition of the TLD “.shop” on the other hand, are not significant in determining whether the Disputed Domain Name is confusingly similar to the CARREFOUR Mark.

Complainant contends Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, pursuant to paragraph 4(a)(ii) of the Policy.

Firstly, Complainant contends that it searched and found no CARREFOUR or CARREFOURS trademark owned by Respondent. Complainant further contends that Respondent has acquired no trademark rights in the term “carrefour” or “carrefours” which could have granted Respondent rights in the Disputed Domain

Name. Complainant further contends it has found no evidence (from Whois data or from the corresponding website) that Respondent is known by the Disputed Domain Name. There is no evidence that Respondent has been commonly known by the Disputed Domain Name as an individual, business, or other organization. This statement is reinforced by the fact that Complainant filed the present Complaint soon after registration of the Disputed Domain Name, intending to prevent Respondent from being commonly known by the Disputed Domain Name.

Secondly, Complainant contends that Respondent reproduced the CARREFOUR Mark in the Disputed Domain Name without any license or authorization from Complainant, which is strong evidence of the lack of rights or legitimate interests. Complainant further contends that it has not authorized the use by Respondent of its CARREFOUR Mark or terms similar thereto in the Disputed Domain Name or in any manner or form.

Thirdly, Complainant contends that Respondent has not, before the original filing of the Complaint, used or made preparations to use the Disputed Domain Name in relation to any *bona fide* offering of goods or services. Complainant further contends that the Disputed Domain Name resolves to a website offering various products for sale. Whether or not the products are actually sold on Respondent's website, and whether any such products are genuine or counterfeit, there is no apparent *bona fide* reason to use the Disputed Domain Name which incorporates the well known CARREFOUR Mark for the website presented under the name of "Adolily".

Complainant further contends that there is no evidence that Respondent has been making a legitimate noncommercial or fair use of the Disputed Domain Name. Complainant further contends that, in light of the worldwide renown of the CARREFOUR Mark, Complainant sees no plausible use of the Disputed Domain Name that would be legitimate, fair or noncommercial.

Fourthly, Complainant contends that since the adoption and extensive use of the CARREFOUR Mark by Complainant predates by far the registration of the Disputed Domain Name, the burden is on Respondent to establish Respondent's rights or legitimate interests.

Complainant further contends that it has made a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name, according to section 2.1 of the [WIPO Overview 3.0](#).

Complainant alleges that the registration and use of the Disputed Domain Name is in bad faith under paragraph 4(a)(iii) of the Policy.

Firstly, Complainant alleges that Complainant and the CARREFOUR Mark are so well known, that it is inconceivable Respondent ignored Complainant or its earlier rights. Complainant further alleges that Respondent had Complainant's name and the CARREFOUR Mark in mind when registering the Disputed Domain Name. Complainant further alleges that Respondent's choice of the Disputed Domain Name cannot have been accidental and must have been influenced by the fame of Complainant and the CARREFOUR Mark. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well known trademark by an unaffiliated entity can by itself create a presumption of bad faith. *Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case No. [D2021-0274](#).

Secondly, Complainant alleges that the current use of the Disputed Domain Name in connection with an online store is further evidence of bad faith on the part of Respondent. Complainant further alleges that Respondent is actively trying to benefit from the renown and fame of Complainant and the CARREFOUR Mark to make a commercial gain, by creating confusion in the mind of Internet users. Moreover, the use of the TLD ".shop" only heightens the possibility of confusion in the mind on consumers interested in Complainant's activities and products online.

Thirdly, Complainant alleges that Respondent chose the Disputed Domain Name because of its identity with or similarity to the CARREFOUR Mark. Complainant further alleges this was done with the expectation that Internet users searching for Complainant's services and products would instead come across the Disputed Domain Name. Such use cannot be considered in good faith (*Express Scripts, Inc. v. Windgather Investments Ltd. / Mr. Cartwright*, WIPO Case No. [D2007-0267](#)).

Fourthly, Complainant alleges its CARREFOUR Mark registrations significantly predate the registrations date of the Disputed Domain Name. Complainant further alleges that previous UDRP panels have established the knowledge of Complainant's intellectual property rights, including trademarks, at the time of registration of the Disputed Domain Name, prove bad faith registration. A quick trademark search would have revealed to Respondent the existence of Complainant and its CARREFOUR Mark. Respondent's failure to conduct such a search is a contributing factor to its bad faith (*Lancôme Parfums Et Beaute & Cie, L'Oreal v. 10 Selling*, WIPO Case No. [D2008-0226](#)).

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable." See also section 4.3 of the [WIPO Overview 3.0](#).

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

- (i) that the Disputed Domain Name is identical or confusingly similar to the CARREFOUR Mark in which Complainant has rights; and
- (ii) that 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.

A. Identical or Confusingly Similar

Complainant submits that the Disputed Domain Name is identical or confusingly similar to Complainant's CARREFOUR Mark pursuant to paragraph 4(a)(i) of the Policy.

Section 1.2.1 of the [WIPO Overview 3.0](#) states that the registration of a trademark is *prima facie* evidence of Complainant having enforceable rights in the CARREFOUR Mark.

Respondent has not contested the assertions by Complainant that it owns numerous registrations of the CARREFOUR Mark.

Therefore, the Panel finds for purposes of this proceeding that Complainant has established its rights in the CARREFOUR Mark.

Section 1.7 of the [WIPO Overview 3.0](#) says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Also, section 1.8 of the [WIPO Overview 3.0](#) instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. Also, section 1.11.1 of the [WIPO Overview 3.0](#) instructs that TLDs such as ".shop" may be disregarded for purposes of assessing confusing similarity.

The Panel finds that the entirety of the CARREFOUR Mark is included in the Disputed Domain Name. The Panel further finds that the additional "s" in the Disputed Domain Name does not prevent a finding of confusing similarity. The Panel further finds that the addition of the TLD ".shop" should be disregarded as it is a standard registration requirement.

Therefore, the Disputed Domain Name is confusingly similar to Complainant's CARREFOUR Mark and Complainant has met the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant contends that Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

Section 2.1 of the [WIPO Overview 3.0](#) states that once Complainant makes out a *prima facie* case in respect of the lack of rights or legitimate interests of Respondent, Respondent carries the burden of production demonstrating it has rights or legitimate interests in the Disputed Domain Name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are 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 CARREFOUR Mark.

Complainant contends that Respondent is not commonly known by the Disputed Domain Name; has no license or authorization to use the CARREFOUR Mark; has made out no *bona fide* offering of goods or services; is not making a legitimate noncommercial or fair use of the Disputed Domain Name; and Respondent had knowledge of Complainant's trademark when registering the Disputed Domain Name.

The Panel finds that Complainant has made out a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name and that Respondent has not contested Complainant's allegations.

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

C. Registered and Used in Bad Faith

Complainant contends that Respondent registered and is using the Disputed Domain Name in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the CARREFOUR Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the CARREFOUR Mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the CARREFOUR Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

Complainant submits that it and the CARREFOUR Mark are so well known, that it is inconceivable that Respondent ignored Complainant or its earlier rights at the time of registering the Disputed Domain Name. Complainant further submits that Respondent's choice of the Disputed Domain Name cannot have been accidental and must have been influenced by the fame of Complainant and the CARREFOUR Mark.

Complainant further submits that Respondent is actively trying to benefit from the renown and fame of Complainant and the CARREFOUR Mark to make a commercial gain, by creating a likelihood of confusion with Complainant. Moreover, the use of the TLD ".shop" only heightens the possibility of confusion in the mind of consumers interested in Complainant's activities and products online. Complainant further submits Respondent registered and used the Disputed Domain name with the expectation that Internet users searching for Complainant's services and products would instead come across the Disputed Domain Name.

Complainant further submits that its CARREFOUR Mark registrations significantly predate the registration date of the Disputed Domain Name. Complainant further alleges that previous UDRP panels have established the knowledge of Complainant's intellectual property rights, including trademarks, at the time of registration of the Disputed Domain Name, prove bad faith registration. A quick trademark search would have revealed to Respondent the existence of Complainant and its CARREFOUR Mark.

The Panel finds that, based on the evidence in the file, Complainant has satisfied the elements of paragraph 4(b)(iv) of the Policy.

The four criteria set forth in 4(b) of the Policy are nonexclusive. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In addition to these criteria, other factors alone or in combination can support a finding of bad faith. See section 3.2.1 of the [WIPO Overview 3.0](#).

In addition, the Panel finds that the entire CARREFOUR Mark is incorporated in the Disputed Domain Name (see section 3.1.4 of the [WIPO Overview 3.0](#)); that there is no plausible good faith use of the Disputed Domain Name by Respondent (see section 3.3 of the [WIPO Overview 3.0](#)); and that Respondent knew and should have known about Complainant's prior rights in the CARREFOUR Mark (see section 3.2.2 of the [WIPO Overview 3.0](#)).

Each of these factors supports the finding of the Panel that the Disputed Domain Name was registered and is being used in bad faith pursuant to 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, <carrefours.shop>, be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: May 9, 2022