

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Tiago De Vasconcelos Grossi
Case No. D2022-2036

1. The Parties

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

Respondent is Tiago De Vasconcelos Grossi, Brazil.

2. The Domain Name and Registrar

The disputed domain name <appcarrefoursolucoes.online> (the “Domain Name”) is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2022. On June 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on June 10, 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 June 13, 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 June 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 6, 2022.

The Center appointed Clive L. Elliott Q.C, as the sole panelist in this matter on July 12, 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 large retailer. It pioneered the concept of hypermarkets in 1963.

Complainant is listed on the Paris Stock Exchange and operates more than 13,000 stores in more than 30 countries. Additionally, it offers travel, banking, insurance and ticketing services.

Complainant owns several hundred trade marks worldwide protecting the CARREFOUR term. In particular, it is the owner of the following trade marks registered prior to the registration of the Domain Name (“Complainant’s Mark”), as follows:

Mark	Jurisdiction	Registration No.	Registration Date	Classes
CARREFOUR	International	351147	October 2, 1968	01 to 34
CARREFOUR	International	353849	February 25, 1969	35 to 42

Complainant is also the owner of numerous domain names identical to Complainant’s Mark, both within generic and country code Top-Level Domains (“TLD”): for example, <carrefour.com> has been registered since 1995.

According to the publicly available Whois, the Domain Name was registered on February 11, 2022. At the time of filing of this Complaint, the Domain Name resolves to an error page.

5. Parties’ Contentions

A. Complainant

Complainant states that the Domain Name is confusingly similar to Complainant’s Mark as it contains Complainant’s Mark in its entirety, together with the generic term “app” placed at the beginning of the Domain Name, and the generic term “solucoes” placed at the end.

Complainant contends that Complainant’s Mark is clearly recognizable with the Domain Name, and the two generic terms that are added only serve to reinforce the reference to Complainant. Complainant goes on to contend that the term “app”, which will be understood by Internet users as short for the English word “application” and the term “solucoes”, which is the Portuguese equivalent of the English term “solutions”; will both be understood by Internet users to be part of common and widespread English vocabulary.

Complainant further states that the TLD “.online” adds to the risk of confusion in the minds of Internet users as to the ownership of the Domain Name. Complainant notes that in another case in which the term “app” was inserted in the disputed domain name <bankwestapp.com>, a previous UDRP decision held that the word “app” is usually perceived to be an abbreviation of the word “application”, meaning a small piece of software that can be downloaded onto a device and used to access the services of a particular entity.

Complainant states that it enjoys wide-spread, continuous reputation in Complainant’s Mark. Further, Complainant asserts that its fame and notoriety is evidenced on the Internet, with its Facebook page currently “liked” by more than 11 million Internet users.

Complainant claims that Respondent should be considered as having no rights or legitimate interests with respect to the Domain Name, as Respondent has acquired no trade mark in the term “carrefour” which could have granted Respondent such rights and further, Complainant has found no evidence that Respondent is commonly known by the Domain Name.

Further, Complainant asserts that it has not licensed or authorized Respondent to use Complainant’s Mark or terms similar thereto in any way, and the fact that the Domain Name resolves to an error page is evidence that Respondent lacks any *bona fide* offering of goods or services under the Policy.

Complainant submits that the Domain Name is inherently likely to mislead Internet users, and there is no evidence that Respondent has been making legitimate, noncommercial, or fair use of the Domain Name and therefore lacks rights or legitimate interests in the Domain Name and has registered the Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant relies on its registration of a number of trade marks worldwide, protecting the CARREFOUR mark, but in particular to international registrations, referred to in this decision as Complainant’s Mark. Complainant also relies on its widespread use of Complainant’s Mark and its registration of numerous domain names identical to Complainant’s Mark.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) records at section 1.2.1 (“Where the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.”) The Panel is satisfied that Complainant has the necessary rights to establish this threshold requirement.

Complainant argues that the Domain Name is confusingly similar to Complainant’s Mark. That is, on the basis that it contains Complainant’s Mark, together with the term “app” placed at the beginning of the Domain Name, and the term “solucoes”, placed at the end. Complainant observes that “app” is an abbreviation of “application” and the term “solucoes”, is the Portuguese equivalent of the English word “solutions”.

For purposes of this ground, the relevant question is whether the Domain Name is confusingly similar to Complainant’s Mark. The Panel is satisfied that the CARREFOUR mark is reproduced in its entirety and is recognizable in the Domain Name. Further, the addition of a well-known descriptive term at the front of the Domain Name and another word, which is likely to be understood by a substantial number of Internet users as denoting “solutions”, or alternatively a word with no obvious meaning, does not detract from the confusingly similar nature of the Domain Name. See section 1.8 of the [WIPO Overview 3.0](#).

Accordingly, the first ground under the Policy is made out.

B. Rights or Legitimate Interests

Complainant submits that Respondent is not licensed or otherwise permitted to use Complainant’s Mark or to register any domain name incorporating Complainant’s Mark. The Panel finds that Complainant has put forward a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. That is, as it has not used the Domain Name in connection with a *bona fide* offering of goods and services, nor a legitimate noncommercial or fair use.

In the absence of any permission or authorization from Complainant to use Complainant's Mark, along with Respondent's failure to respond to Complainant's allegations, the Panel finds that use of the Domain Name by Respondent is likely to result in consumers being confused into believing that the Domain Name is connected in some way to Complainant, when that is not the case.

Under the circumstances, the Panel concludes that the Domain Name was not registered and has not been used for any legitimate noncommercial or fair purpose.

Accordingly, this Respondent has not rebutted Complainant's *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name and the second ground under the Policy is made out.

C. Registered and Used in Bad Faith

Complainant submits that the Domain Name has been registered in bad faith, albeit, without elaborating on why that is the case. Notwithstanding this, the Panel is satisfied that Complainant has made long-standing and significant use of Complainant's Mark and absent any evidence or submission to the contrary, the Panel finds that the Domain Name was registered in bad faith.

In terms of use, Complainant notes that at present the Domain Name resolves to an error page, rather than an active website. However, whether or not the Domain Name resolves to an active website is not determinative. Past UDRP panels having noted that the word bad faith "use" in the context of Policy paragraph 4(a)(iii) does not require a positive act on the part of a respondent and that passively holding a domain name may constitute bad faith use: See *Telstra Corporation v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Complainant has therefore established the third ground under 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 Domain Name <appcarrefoursolucoes.online> be transferred to Complainant.

/Clive L. Elliott Q.C./

Clive L. Elliott Q.C.

Sole Panelist

Date: July 27, 2022