

ADMINISTRATIVE PANEL DECISION

**Carrefour SA v. Registration Private, Domains By Proxy, LLC /
Abdelrahman Awad
Case No. D2022-2969**

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America / Abdelrahman Awad, Egypt.

2. The Domain Name and Registrar

The disputed domain name <carrefour2022.live> (the “Disputed Domain Name”) 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 August 11, 2022. On August 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 11, 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 August 12, 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 August 17, 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 the Respondent of the Complaint, and the proceedings commenced on August 18, 2022. The proceeding was suspended on August 22, 2022 and subsequently re-instituted on September 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on September 22, 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

The Complainant is a global retailer operating more than 12,000 stores in more than 30 countries worldwide under the CARREFOUR mark. The Complainant has more than 384,000 employees and its stores have 1,300,000 daily unique visitors. In addition to retail stores, the Complainant also offers travel, banking, insurance and ticketing services under the CARREFOUR mark. In 2018, the Complainant's turnover was 76,000,000,000 euros. The Complainant also is listed on the index of the Paris Stock Exchange.

The Complainant is also the owner of a number of trade mark registrations for the CARREFOUR mark, in various countries and classes, including, *inter alia*, International Trademark Registration No. 351147 in Classes 1 to 34 registered on October 2, 1968 designating Benelux, Spain, Italy and Monaco, International Trademark Registration No. 353849 in Classes 35 to 42 registered on February 28, 1969 designating Estonia, Lithuania, Benelux, Czech Republic, Spain, Hungary, Croatia, Italy, Liechtenstein, Latvia, Morocco, Monaco, Montenegro, Macedonia, Serbia, Slovenia, Slovakia and San Marino, European Union Trademark Registration No. 5178371 in Classes 9, 35 and 38 registered on August 30, 2007, and International Trademark Registration No. 777569 in Classes 1 to 19 and 21 to 42, registered on November 16, 2001 designating Syrian Arab Republic, Egypt, Algeria and Morocco (the "Complainant's Trademark"). The Complainant's Trademark is also fully incorporated in various domain names, including, *inter alia*, <carrerfour.com> and <carrefouregypt.com> (altogether, the "Complainant's Domain Names"). Thus, the Complainant has obtained an exclusive right to the trademark CARREFOUR through extensive use.

The Disputed Domain Name was registered by the Respondent using the anonymous registration services of Domains by Proxy, LLC on June 24, 2022, which is more than 54 years after the Complainant's Trademark was first registered. The Disputed Domain Name previously resolved to a webpage which displayed the Complainant's Trademark and contained links which resolved to a website with potential security risks of phishing and/or malware. The Disputed Domain Name currently resolves to an inaccessible webpage.

5. Parties' Contentions

A. Complainant

(a) The Disputed Domain Name is identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. The only element which differentiates the Disputed Domain Name from the Complainant's Trademark is the addition of the suffix "2022" to read <carrefour2022.live>.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. There is no evidence suggesting that the Respondent is commonly known by the Disputed Domain Name. Moreover, the Respondent has not received any license or other authorization of any kind to make use of the Complainant's Trademark as part of a domain name or otherwise. Furthermore, there is also no evidence to show that the Respondent used or has made 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 and services, or for a legitimate noncommercial or fair use.

(c) The Respondent's registration of the Disputed Domain Name, which is confusingly similar to the Complainant's Trademark, is in itself an act of bad faith by someone with no legal connection with the Complainant's business. Moreover, the Respondent must have been fully aware of the existence of the Complainant's rights in the Complainant's Trademark when it registered the Disputed Domain Name and

used the Complainant's Trademark because of the wide-spread reputation acquired by the Complainant in the Complainant's Trademark. Furthermore, the Respondent used the Disputed Domain Name to divert Internet users by virtue of the association between the Disputed Domain Name and the Complainant's Trademark to a webpage which promoted phishing and/or malware. Therefore, given these factors, the Respondent has registered and is using the Disputed Domain Names in bad faith.

B. Respondent

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

However, the Respondent submitted email communications on August 20, 2022 in English, stating, *inter alia*, that he is willing but is unable to cancel the Disputed Domain Name. The proceeding was suspended for potential settlement but there is no further communication from the Respondent thereafter.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 and is being used by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark based on various trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top Level Domain "gTLD" extension, ".live" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the suffix "2022" at the end of the Complainant's Trademark (in lower case). UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless or otherwise) will not prevent the fact that the domain name at issue is confusingly similar to the mark in question. See section 1.8 of the [WIPO Overview 3.0](#). The Panel therefore finds that the mere addition of the suffix "2022" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark. There is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

The Respondent did not submit a formal Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a formal Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) Before any notice to him of the dispute, the Respondent's 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 has been commonly known by the Disputed Domain Name, even if the Respondent 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.

There is no evidence to suggest the Respondent used or made 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.

The Panel also agrees with the Complainant that no evidence has been provided to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

Further, there is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name for hosting a webpage containing security risks for phishing and/or malware cannot be regarded as legitimate noncommercial or fair use, noting in particular that the Complainant's Trademark would not likely be adopted by the Respondent other than for the purpose of attracting online traffic to its webpage or otherwise taking advantage of the goodwill of the Complainant's Trademark. In this regard, the Panel also notes the nature of the Disputed Domain Name, being identical to the Complainant's Trademark, carries a high risk of implied affiliation. See Section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDPR panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be well-known globally. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "carrefour" are the Complainant's websites and third party websites providing information relating to the Complainant's services. Therefore, the Panel agrees that the Respondent must have been aware of the Complainant and the Complainant Trademark rights when registering and using the Disputed Domain Name.

The Panel also agrees with the Complainant that the following factors support a finding that the Disputed Domain Name was registered and has been used by the Respondent in bad faith:

- (i) The Respondent registered the Disputed Domain Name using a privacy shield to conceal its identity (see *Primonial v. Domain Administrator, PrivacyGuardian.org / Parla Turkmenoglu*, WIPO Case No. [D2019-0193](#)).
- (ii) The Respondent's use of the Disputed Domain Name for phishing and/or malware distribution (see section 3.4 of the [WIPO Overview 3.0](#)).
- (iii) The Respondent registered and has been using the Disputed Domain Name to mislead and divert Internet users for commercial gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website which is resolved to by the Disputed Domain Name. See section 3.1 of the WPO Overview 3.0.
- (iv) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in lower case in its entirety with the addition of the suffix "2022". The Respondent has not demonstrated any attempt to make legitimate use of the Disputed Domain Name. In fact, the Respondent's use of the Disputed Domain Name for ostensibly illegitimate activity of phishing and/or malware distribution can never confer rights or legitimate interests on the Respondent (see section 3.1.4 of the [WIPO Overview 3.0](#)).

In addition, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name. This further supports a finding of bad faith use of the Disputed Domain Name by the Respondent.

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <carrefour2022.live> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: October 6, 2022