

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Anonymize, Inc.

Case No. D2022-4596

1. The Parties

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

The Respondent is Anonymize, Inc., United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 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 in the Complaint (Privacy Administrator, Anonymize, Inc.). The Center sent an email communication to the Complainant on December 6, 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 December 9, 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 December 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on January 25, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is a worldwide leader in the provision of supermarkets, retail stores, food and non-food products. It pioneered the concept of hypermarkets back in 1968, and has now expanded to convenience stores and online stores. The Complainant is listed on the Paris Stock Exchange and operates more than 12,000 stores in more than 30 countries worldwide, having more than 384,000 employees and 1.3 million daily unique visitors in its stores.

The Complainant has registered numerous trademarks consisting of CARREFOUR including the International trademark CARREFOUR (registration No. 351147), registered on October 2, 1968, duly renewed, and designating goods in International Classes 1 to 34, and the International trademark CARREFOUR (registration No. 353849), registered on February 28, 1969, duly renewed and designating services in International Classes 35 to 42. The Complainant is the owner of numerous domain names consisting of the CARREFOUR trademark, for instance <carrefour.com>, which is registered since October 25, 1995.

The disputed domain name was registered on November 12, 2022 and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its earlier well-known CARREFOUR trademarks. The disputed domain name incorporates the earlier trademarks of the Complainant together with the letters "fr", which can be perceived by Internet users as the two-letter country abbreviation for France, country in which the Complainant is headquartered.

As regards the second element, the Complainant argues that the Respondent has acquired no trademark in the term "carrefour" or "carrefourfr" which could have granted the Respondent with rights in the disputed domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. In addition, the Respondent reproduces the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant. The Complainant submits that it has not authorized the use of its earlier trademarks or terms similar thereto in the disputed domain name in any manner or form. Moreover, the Respondent has not used or prepared to use the disputed domain name in relation to a *bona fide* offering of goods or services. At the time of the original filing of the Complaint, the disputed domain name resolved to an error page. At the date of the amended Complaint, the disputed domain name resolves to an index page where no file or other type of content is listed or made available.

With respect to the third element, the Complainant argues 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. According to the Complainant, it is highly likely that the Respondent chose the disputed domain name because of its identity with or similarity to a trademark in which the Complainant has rights and legitimate interests. Moreover, the Respondent is actively engaged in a pattern of abusive domain name registrations which target renowned brands. The Respondent is preventing the Complainant from reflecting its trademark

in the corresponding domain name. The Complainant cannot think of any future use of the disputed domain name that may be done by the Respondent in good faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant physical and electronic addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

6.2. Substantive Matters

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

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

A. Identical or Confusingly Similar

The Complainant must establish that it has a trademark or service mark and that the disputed domain name is identical or confusingly similar to that trademark or service mark for the Complainant to succeed.

The Complainant has provided evidence of its rights in the CARREFOUR trademarks.

The disputed domain name is confusingly similar to the Complainant's trademark CARREFOUR, which is reproduced in its entirety in the disputed domain name. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of another term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-level-Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

This Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademarks CARREFOUR and claims that the Respondent has no rights, legitimate interest or any legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

According to the un rebutted assertions of the Complainant, its CARREFOUR trademarks were widely used in commerce well before the registration of the disputed domain name and is well known. The disputed domain name includes the Complainant's trademarks in its entirety, in addition to "fr" and the relevant gTLD. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name.

As regards to the use, the disputed domain name is passively held.

Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be a bad faith registration: "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademark of the Complainant is distinctive and widely used in commerce. UDRP 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 section 3.1.4 of the [WIPO Overview 3.0](#).

Moreover, the Respondent has not participated in the proceeding and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good faith use and indeed none would seem plausible.

Also, there appears to be a pattern of abusive registrations by the Respondent, as the unrebutted evidence in the case file shows that the Respondent was involved in other UDRP proceedings where similar factual situations caused the concerned UDRP panels to decide in favor of the complainants. This fact also supports a finding grounded on paragraph 4(b)(ii) of the Policy, referring to a respondent registering "the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct".

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

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

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: February 1, 2023