

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. JOYCE MARIA PEREIRA LEITE and Djalma Ribeiro
Case No. D2022-4797

1. The Parties

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

The Respondents are JOYCE MARIA PEREIRA LEITE, Brazil, and Djalma Ribeiro, Brazil.

2. The Domain Names and Registrar

The disputed domain names <carrefoureativar.com> and <reativarcarrefour.com> are registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 14, 2022, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 9, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center also informed the Parties that the language of the registration agreement for both disputed domain names is Portuguese. The Complainant filed an amended Complaint and an amendment to the Complaint with a request for English to be the language of proceeding on January 10, 2023.

The Center verified that the Complaint, together with the amendment to the Complaint and 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 January 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondent’s default on February 8, 2023.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on February 15, 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.

4. Factual Background

The Complainant is a worldwide leader in retail and a pioneer of the concept of hypermarkets since 1968. With a turnaround of EUR 76 billion in 2018, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40). The Complainant operates more than 12,000 stores in more than 30 countries worldwide with more than 384,000 employees worldwide and 1.3 million daily unique visitors in its stores and is considered a major and well-known worldwide leader in retail.

The Complainant also offers travel, banking, insurance, and ticketing services.

The Complainant owns several hundred trademark rights worldwide in the CARREFOUR term. The earliest registration of the CARREFOUR mark is under International registration number 351147, registered on October 2, 1968.

The Complainant is also the owner of numerous domain names identical to its trademarks, both within generic and country code top-level domains.

The Complainant's social media pages are currently "liked" or "followed" by more than 11 million Internet users.

The Respondents registered the disputed domain names <carrefoureativar.com> on November 23, 2022 and <reativarcarrefour.com> on November 22, 2022. Both disputed domain names resolve to websites displaying a warning that the sites are deceptive.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- a) the disputed domain names are highly similar to the earlier well-known trademarks CARREFOUR once the disputed domain names reproduce the earlier trademark CARREFOUR in its entirety, together with term "reativar".
- b) the Respondent has no rights or legitimate interests in respect of the disputed domain name since:
 - i. the Complainant performed searches and found no CARREFOUR trademark owned by the respondent, therefore the Complainant asserts that the Respondent has acquired no trademark in the terms CARREFOUR which could have granted the Respondent rights in the disputed domain names.
 - ii. the Respondent reproduces the Complainant's earlier registered trademarks CARREFOUR in the disputed domain names without any license or authorization from the Complainant, which is a strong evidence of the lack of legitimate interest. The Complainant submits that it has not authorized the use of the term "carrefour" in the disputed domain names in any manner or form.
 - iii. the Complainant puts forth that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain names in relation to a *bona*

vide offering of goods or services. The disputed domain names resolve to a page displaying a Google SafeBrowsing alert on the device of the Complainant's representative.

- iv. the adoption and extensive use by the Complainant of the trademark CARREFOUR predates the registration date of the domain names therefore the Complainant argue that the burden is on the Respondent to establish the Respondent's rights or legitimate interests the Respondent may have or have had in the domain names.
- c) the Complainant argues that the Respondent has registered and is using the disputed domain names in bad faith, for the following reasons:
- i. the Complainant and its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights on the terms CARREFOUR.
 - ii. it is very likely that the Respondent chose the domain names because of their identity or similarity to a trademark in which the Complainant has rights and legitimate interest and for the Complainant this was most likely done in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the Respondent's site. The Complainant thus states that the Respondent acquired and is using the disputed domain names to attract Internet users by creating a likelihood of confusion with the Complainant's earlier marks.
 - iii. the Complainant's CARREFOUR registrations significantly predate the registration date of the disputed domain names.
 - iv. the Respondent willingly entered a pattern of behavior, registering several domains reproducing the Complainant's earlier trademarks.

B. Respondent

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

6. Discussion and Findings

Language

The language of the registration agreement for each disputed domain name was in the Portuguese language and the Complainant requests to conduct the proceedings in English.

The Panel has authority to determine the language of proceedings. As it is reminded in section 4.5.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") (provided as Annex 18), "panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement".

Facing the arguments of the Complainant and the circumstances of this case including the absence of a reply from the Respondent both to the Complainant's language request and to the Complaint, the Panel determines that English is the language of proceedings.

Consolidation of Respondents

The Complainant requested the consolidation of Respondents in this case, contending that: (i) both disputed domain names have the same Registrar and privacy service and were registered one day apart from each other; (ii) both disputed domain names are very similar to each other, containing the exact same words (CARREFOUR and "reativar") in a different order (noting that <carrefoureativar.com> is missing a "r" but

clearly using the Complainant's trademark CARREFOUR and the term "reativar" through a contracted label).

Considering the circumstances, including the fact that both Respondents are located in Brazil and used the same Registrar within a day to register the disputed domain names with a very similar naming pattern, it is very likely that the disputed domain names are under common control. See [WIPO Overview 3.0](#), section 4.11.2. Therefore, the Panel accepts the request for consolidation, and will refer to the Respondents as the "Respondent" hereinafter.

Substantive Matters

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

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

A. Identical or Confusingly Similar

The disputed domain names incorporate the CARREFOUR trademark in its entirety, one of them together with the term "reativar" and the other with the term "eativar. As the trademark is clearly recognizable within the disputed domain names, the addition of these terms does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see [WIPO Overview 3.0](#), section 2.1). The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed nor given its consent to the Respondent to use or register any domain name incorporating the Complainant's trademarks.

Additionally, the Panel finds that the nature of the disputed domain names, incorporating the Complainant's trademark in its entirety just with the term "reativar" or "eativar" (which combined with the last letter "r" of the Complainant's trademark compose the word "reativar") points to an intention to confuse Internet users seeking for or expecting the Complainant. In this sense, the Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain names, nor any use in connection with a *bona fide* offering of goods or services. Based on the available record, the disputed domain names resolve to websites displaying a warning that the site is deceptive.

The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy.

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

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant's contentions that the disputed domain names were registered in bad faith.

The Complainant and its trademarks are so widely well known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights and it is highly likely that the Respondent chose the disputed domain names because of their confusing similarity with the Complainant's trademarks. Also, as the disputed domain names resolve to deceptive websites, containing potentially harmful material to Internet users, this use cannot be regarded as a good faith use under the Policy.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith. Therefore, the 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 <carrefoureativar.com> and <reativarcarrefour.com> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: March 2, 2023