

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Milen Radumilo

Case No. D2023-0377

### **1. The Parties**

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

The Respondent is Milen Radumilo, Romania.

### **2. The Domain Name and Registrar**

The disputed domain name <rhcarrefour.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023. On January 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 27, 2023, 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 (Contact Privacy Inc. Customer 0166076990) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2023, 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 February 2, 2023.

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 February 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 7, 2023.

The Center appointed Teruo Kato as the sole panelist in this matter on March 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**

According to the Complainant, the Complainant is a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968, and it is listed on the index of the Paris Stock Exchange (CAC 40) with a turnover of EUR 76 billion in 2018, and operates more than 12,000 stores in more than 30 countries worldwide.

The Complainant is the owner of the following trademarks, among others, International trademark CARREFOUR No. 351147, registered on October 2, 1968, covering goods in classes 1 to 34, and International trademark CARREFOUR No. 353849, registered on February 28, 1969, covering services in classes 35 to 42.

The disputed domain name was registered on December 31, 2022.

The Respondent is Milen Radumilo, Romania.

According to the Complainant's evidence, the disputed domain name resolves to a page featuring pay-per-click commercial links.

The Complainant requests that the disputed domain name be transferred to the Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it is the owner of the CARREFOUR trademark.

The Complainant also contends that the disputed domain name is confusingly similar to the Complainant's CARREFOUR trademark.

The Complainant further contends that the Respondent is not a licensee nor an authorized agent of the Complainant, nor in any other way authorized to use the Complainant's trademark CARREFOUR, and that the Respondent is not commonly known by the disputed domain name as an individual, business or other organization, and that the Respondent does not make any *bona fide* use of the disputed domain name.

The Complainant also contends that the Respondent has registered and is using the disputed domain name in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The Panel must determine whether (a) the Complainant has a trademark or service mark; and (b) whether the disputed domain name is identical or confusingly similar to that trademark or service mark.

The Complainant submitted evidence of trademark registrations and the Panel is satisfied that the Complainant is the owner of, among others:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, and designating multiple jurisdictions and covering goods in classes 1 to 34; and
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, and designating multiple jurisdictions and covering services in classes 35 to 42.

As to the confusingly similar element for the purposes of the Policy, the Panel has proceeded to compare the disputed domain name to the trademark in which the Complainant has rights.

Section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., 'info', '.com', '.club') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test", and the Panel finds no reason why this established practice should not be applied to the present case.

Apart from the generic TLD (being ".com"), the disputed domain name contains the trademark CARREFOUR in its entirety.

The Panel notes that a term "rh" is added immediately before the CARREFOUR trademark.

In this connection, the Panel notes section 1.7 of the [WIPO Overview 3.0](#) which states that "[w]hile each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The Panel also notes that, in relation to the addition of the term "rh", section 1.8 of the [WIPO Overview 3.0](#) states that "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

In the circumstances, the Panel sees no reason why these established practices should not be applied to the present case and holds that the disputed domain name is confusingly similar to the Complainant's trademark. Accordingly, the Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

## **B. Rights or Legitimate Interests**

Under paragraph 4(c) of the Policy, any of the following circumstances, if found by the Panel, may demonstrate a respondent's rights or legitimate interests in a domain name:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The consensus view of UDRP panels is that the burden of proof in establishing lack of rights or legitimate interests in respect of a domain name rests with the complainant in making out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case the Complainant contends with relevant evidence that: (i) the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services and the disputed domain name resolves to a page featuring pay-per-click commercial links; (ii) the Respondent has not been commonly known by the disputed domain name; and (iii) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Panel is satisfied that the Complainant has established a *prima facie* case. By not submitting a response, the Respondent has failed to overturn such *prima facie* case and has also failed to invoke any of the defenses as set out in paragraph 4(c) of the Policy.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C. Registered and Used in Bad Faith**

To fulfill the third requirement, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

In the present case, the Panel is satisfied with the Complainant's contention that the registrations of the CARREFOUR trademarks took place many years ago and the Complainant had established its reputes internationally long before.

In the circumstances, the Panel holds that the Respondent most likely knew of the Complainant, its business, and trademarks prior to registering the disputed domain name on December 31, 2022 (see section 3.2.2 of the [WIPO Overview 3.0](#)).

The Panel also notes the contention made by the Complainant that "Respondent is actively engaged in a pattern of abusive domain name registrations which target Complainant's trademarks and other renowned brands" and that "[e]xamples of previous UDRP cases where the Panels have established that the Respondent acted in bad faith and ordered the transfer of the disputed domain names to the Complainant comprise *Carrefour v. Contact Privacy Inc. Customer 0153830825 / Milen Radumilo*, WIPO Case No. [D2019-1591](#), <carrefour-finance.com>; *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2000](#), <carrefour.com>; *Carrefour v. Contact Privacy Inc. Customer 0153824515 / Milen Radumilo*, WIPO Case No. [D2019-2280](#), <carrefoul.com>; *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2610](#), <carrefoure.com>; *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2020-0409](#), <carefouruae.com>; *Carrefour SA v. Milen Radumilo*, WIPO Case No. [D2020-1107](#), <carrefoursolucoesfinanceiras.com>; *Carrefour SA v. Milen Radumilo*, WIPO Case No. [DCO2020-0020](#), <carrefur.co>".

The Panel notes that no counter-argument has been submitted by the Respondent.

In the circumstances the Panel holds that the Respondent registered the disputed domain name in bad faith.

As to the use of the disputed domain name, the Complainant contends that "the disputed domain name resolves to a pay-per-click page of commercial links which generate revenue for the Respondent" and that "the use of pay-per-click advertisements through the disputed domain name, trades off the goodwill of the Complainant and takes an unfair advantage from the Internet traffic associated with Complainant's well-known CARREFOUR trademark. Accordingly, this cannot constitute any *bona fide* offering of goods or services". Having examined the relevant evidence, the Panel finds that by using the disputed domain name that is confusingly similar to the Complainant's CARREFOUR trademark, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website or other on-line location.

The Panel further notes from its visit at the website associated with the disputed domain name that the said web page contains a link entitled "このドメインを購入する" in Japanese, the English translation of which would

be "Purchase this domain". This link resolves to a page hosted by GoDaddy Japan, which offers the disputed domain name for sale for the price of USD 2,888.

The Panel finds that this offer for sale further supports a finding of bad faith because it is more likely than not that the Respondent has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant or to a competitor of the Complainant, for possible valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name.

Taking all matters into careful consideration, the Panel holds that the Respondent registered and is using the disputed domain name in bad faith. The Panel therefore concludes that the third requirement of the Policy has been met.

## **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 <rhcarrefour.com> be transferred to the Complainant.

*/Teruo Kato/*

**Teruo Kato**

Sole Panelist

Date: March 23, 2023