

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Domain Privacy, Domain Name Privacy Inc.
Case No. D2024-1651

1. The Parties

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

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name <carrefur.online> is registered with Communigal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 19, 2024. On April 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2024, 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 (Domain Name Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 2024, 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 April 29, 2024.

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 May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 24, 2024.

The Center appointed Delia-Mihaela Belciu as the sole panelist in this matter on May 30, 2024. 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 public limited company founded in 1959, being a pioneer of the concept of hypermarkets. The Complainant operates more than twelve thousand stores in more than 30 countries, having more than 384,000 employees worldwide, 1,3 million daily unique visitors in its webstores, and a turnover around 80 billion euros every year.

The Complainant owns numerous trademark registrations incorporating the mark CARREFOUR worldwide, among which:

- the International trademark registration No. 191353 for CARREFOUR, registered on March 9, 1956, for goods in class 03;
- the International trademark registration No. 351147 for CARREFOUR, registered on October 2, 1968, for goods in classes 1 - 34;
- the International trademark registration No. 353849 for CARREFOUR, registered on February 28, 1969, for services in classes 35 - 42;
- the European Union trademark No. 005178371 for CARREFOUR, registered on August 30, 2007, for goods and services in classes 9, 35, 38.

Moreover, the Complainant owns several domain names containing the trademark CARREFOUR, among which <carrefour.eu>, registered on March 10, 2006, <carrefour.fr>, registered on June 23, 2005, both used for business related purposes of the Complainant, as well as <carrefour.com>, registered on October 25, 1995, <carrefour.net>, registered on June 18, 2001, both used for corporate purposes of the Complainant.

The Complainant has also several social media pages liked or followed by numerous users, for example Facebook France, LinkedIn France, Instagram France.

The disputed domain name <carrefur.online> was registered on February 18, 2024, at the time of filing the Complaint, the disputed domain name redirected Internet users to an inactive webpage. At the date of the Panel's decision, the disputed domain names redirects to a landing webpage which includes Pay-Per-Click ("PPC") links.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- (i) the disputed domain name is confusingly similar to his CARREFOUR trademark, as it contains the trademark in its entirety, with the omission of the letter "o" from the trademark;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name for a number of reasons, among which that, (1) the Complainant has not authorised the Respondent to make use of his trademark within the disputed domain name, (2) there is no evidence showing the use of the disputed

domain name in connection with a bona fide offering of goods or services, or any legitimate noncommercial or fair use, (3) lack of response from the Respondent to the filed complaint, (4) similarity of the disputed domain name to the well-known CARREFOUR trademark, which raises concerns regarding potential misuse or attempts to mislead Internet users for commercial gain by creating confusion with the Complainant's trademark;

(iii) the disputed domain name was registered and is being used in bad faith for a number of reasons, among which that, (1) the Complainant's CARREFOUR trademarks are so well-known that it seems inevitable that the Respondent was not aware of them at the time of registration of the disputed domain name, (2) the use of a privacy service is a strong indicator of bad faith, (3) exploiting a widely recognized trademark and concealing one's identity points to a registration and use of the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to succeed, such must prove, according to paragraph 4(a) of the Policy, that:

(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 with respect to the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

In case all three elements above have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. Thus, the Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. The disputed domain name incorporates the Complainant's CARREFOUR trademark without the letter "o". Therefore, the Panel finds that the disputed domain name consists of a common, obvious, or intentional misspelling of a trademark which is considered to be confusingly similar to the relevant mark for purposes of the first element. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

In what concerns the addition of the generic Top-Level Domain ".online" in relation to the disputed domain name, such is viewed as a standard registration requirement, and is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Thus, based on the available evidence, the Respondent does not have the Complainant’s authorization to register the disputed domain name.

Furthermore, the disputed domain name consists of a common, obvious, or intentional misspelling of the Complainant’s CARREFOUR trademark with the omission of the letter “o”, which is very likely to lead to confusion for Internet users seeking or expecting the Complainant.

Moreover, the Respondent used the disputed domain name to redirect to an inactive webpage. Nothing is on record which would show that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or that the Respondent has any rights or legitimate interests in the disputed domain name.

The current use of the disputed domain name namely redirecting to a landing webpage displaying PPC links does not alter the Panel’s finding of absence of rights or legitimate interests.

All the above does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Complainant’s rights in the CARREFOUR trademark predate the registration date of the disputed domain name, which consists of a common, obvious, or intentional misspelling of the Complainant’s CARREFOUR trademark.

The CARREFOUR trademark enjoys of a well-known character, recognized by earlier UDRP panels as well (see *Carrefour v. Tucows Domains Inc. / Torsten Littmann*, WIPO Case No. [D2019-2328](#), *Carrefour v. Registration Private, Domains by Proxy LLC / Nisar Ahmad Zafar*, WIPO Case No. [D2016-2506](#), and *Carrefour SA v. Matias Barro Mares*, WIPO Case No. [D2020-3088](#)).

In light of the well-known character of the CARREFOUR trademark, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the disputed domain name without knowledge of the Complainant's CARREFOUR trademark and of his activity, which supports a finding of bad faith registration. [WIPO Overview 3.0](#), section 3.2.2.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes the composition of the disputed domain name, which comprises a typo of the Complainant's CARREFOUR trademark, and the use of the disputed domain name support a finding of bad faith.

The disputed domain name redirected at the time when the Complaint was filed to an inactive website and appeared to be passively held. From the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Noting: (i) the degree of distinctiveness and reputation of the Complainant's CARREFOUR trademark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) and the implausibility of any good faith use to which the inherently misleading disputed domain name may be put, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

At the date of the Panel's decision, the disputed domain name is used in relation to a landing webpage displaying PPC links which further reinforces the Panel's finding.

Finally, the fact that the disputed domain name was registered with the use of a privacy service leads to the assumption that it was made in order to hide the Respondent's identity and also to prevent the Complainant from contacting him considering also all the above, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.6.

Based on the available record, the Panel finds that the Complainant has established the third element 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 name <carrefur.online> be transferred to the Complainant.

/Delia-Mihaela Belciu/

Delia-Mihaela Belciu

Sole Panelist

Date: June 13, 2024