

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Bertrand Doffo

Case No. D2024-2167

### **1. The Parties**

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

The Respondent is Bertrand Doffo, Côte d'Ivoire.

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

The disputed domain name <carrefour-banque.fun> is registered with eNom, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 27, 2024. On May 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 28, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 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 the same day.

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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 3, 2024.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on July 18, 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 multinational retail company headquartered in France. The Complainant has over 321,000 employees throughout the world. The Complainant had a turnover of almost EUR 80.7 billion in 2019, over half of which was generated outside France. The Complainant today has 12,225 stores in over 30 countries with net sales amounted to EUR 83.3 billion (in 2023). The Complainant ranked in top positions in various brand rankings, few of them are 39th in The Most Valuable European Brands by Brand Finance in 2023, 7th in Top 50 Global Retailers by NRF in 2023 and 96th in Fortune Global 500 by Fortune in 2021. The Complainant also has a Facebook page wherein it is followed by more than 11 million users. The renown of the Complainant and its trademarks has been established in several UDRP panels decisions.

The Complainant holds several hundreds of trademark registrations for the trademark CARREFOUR worldwide, including:

- International Registration CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in International Classes 1 to 34.

The Complainant also holds the following trademark registrations in France which are mentioned below:

- BANQUE CARREFOUR, No. 3585968, registered on July 2, 2008, duly renewed, and designating services in International Class 36.
- Registration CARREFOUR BANQUE & ASSURANCE, No. 3585950, registered on July 2, 2008, duly renewed, and designating services in International Class 36.
- Registration LA BANQUE CARREFOUR No. 3765316, registered on September 9, 2010, duly renewed, and designating services in International Class 36.

The Complainant is also the owner of numerous domain names reflecting its trademark CARREFOUR, including <carrefour.com> and <carrefour-banque.fr>. The Complainant's trademarks enjoy a wide-spread continuous reputation.

The disputed domain <carrefour-banque.fun> was registered on May 17, 2024 and resolves to an error page indicating (translated from French) "Malicious users may be trying to steal your information from carrefour-banque.fun (for example, passwords, messages or credit cards)."

The Respondent has not replied in the present proceedings.

#### 5. Parties' Contentions

Notably, the Complainant contends that the disputed domain name is confusingly similar to its mark; that the Respondent lacks rights and legitimate interests therein, and that the disputed domain name was registered and is being used in bad faith.

##### A. Complainant

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademarks as it reproduces the Complainant's trademark CARREFOUR in its entirety. In addition, it is confusingly similar to the Complainant's other trademarks BANQUE CARREFOUR, CARREFOUR BANQUE & ASSURANCE and LA BANQUE CARREFOUR.

The Complainant further contends while the term "CARREFOUR" appears in its entirety and is clearly identifiable, it is followed by "banque" which is a common descriptive term in French for the term "bank". The Complainant contends that the addition of such a term does not prevent the Panel from finding confusing similarity. Moreover, the generic Top-Level Domain ("gTLD") ".fun" can be disregarded under the first

element. The Complainant further contends that the presence of the hyphen serving as link between the distinctive mark CARREFOUR and the other non-distinctive term “bank” added to the disputed domain name also fails to distinguish the disputed domain name from the Complainant’s trademark CARREFOUR.

Regarding the second element, the Complainant, inter alia, alleges that neither does the Respondent own any trademark corresponding to the disputed domain name nor is it commonly known by the disputed domain name as an individual, business or other organization. The Complainant asserts that the Respondent’s inclusion of its trademark is without license/authorization. Accordingly, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name.

On the last and third element, the Complainant, inter alia, claims that it is inconceivable that the Respondent was unaware of the widely used CARREFOUR trademarks belonging to the Complainant. The Complainant further asserts that the Respondent must have had the Complainant’s name and trademarks in mind at the time of adopting and registering the disputed domain name. The Complainant reiterates that the UDRP panels have consistently held that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Further, mere non-use of a domain name, including a blank page, does not prevent a finding of bad faith under the doctrine of passive holding. The Complainant also relies upon other additional grounds, such as implausibility of any good faith use to which the disputed domain name may be put, the disputed domain name preventing the Complainant from reflecting its trademarks in the corresponding domain name, the risk of the Respondent using the email server, which is configured on the disputed domain name for sending and receiving of emails for phishing purposes, particularly since it contains the prior, intensively used trademark of the Complainant CARREFOUR, associated with generic relevant term “banque” which strongly suggests the banking activities of the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 the trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the CARREFOUR mark is reproduced within the disputed domain name.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the CARREFOUR mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The gTLD, in this case “.fun” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test, [WIPO Overview 3.0](#) section 1.11.

Although the addition of other terms here, “-banque” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

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 Respondent has not made any use of the disputed domain name and neither has there been any evidence of demonstrable preparations to use. As the Complainant alleges, the probability of the Respondent registering the disputed domain name intentionally in an attempt to take unfair advantage of the Complainant’s trademark by creating a likelihood of confusion with it cannot be ruled out.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s trademark, the composition of the disputed domain name using the term “banque” together with the Complainant’s trademark CARREFOUR, and the Respondent’s failure to submit a response, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the 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 <carrefour-banque.fun> be transferred to the Complainant.

*/Meera Chature Sankhari/*

**Meera Chature Sankhari**

Sole Panelist

Date: August 1, 2024