

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Rüdiger Falk
Case No. D2024-2316

1. The Parties

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

The Respondent is Rüdiger Falk, Germany.

2. The Domain Name and Registrar

The disputed domain name <carrefour-ci.com> is registered with One.com A/S (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2024. On June 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 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 June 10, 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 June 12, 2024.

On June 10, 2024, the Center informed the parties in German and English, that the language of the registration agreement for the disputed domain name is German. On June 12, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 18, 2024. In accordance with the Rules, paragraph 5,

the due date for Response was July 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 15, 2024.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on July 19, 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 registered in the trade and companies register of Evry (France) and was founded in 1959. The Complainant operates more than twelve thousand stores in more than 30 countries, with more than 384.000 employees worldwide, 1.3 million daily unique visitors in its webstores and a turnover around EUR 80 billion every year.

The Complainant is the owner of several trademarks for CARREFOUR ("CARREFOUR trademark"), including:

- International Trademark Registration CARREFOUR No. 191353, registered on March 9, 1956, designated for Benelux, Spain and Italy;
- International Trademark Registration CARREFOUR No. 351147, registered on October 2, 1968, designated for Benelux, Spain, Italy and Monaco; and
- European Union Trademark Registration CARREFOUR No. 005178371, registered on August 30, 2007.

The Complainant is also owner of several domain names including the CARREFOUR trademark, such as the domain name <carrefour.eu>, registered on March 10, 2006, and <carrefour.fr>, registered on June 23, 2005.

The disputed domain name was registered on May 23, 2024. At the time of decision and when the Complaint was filed, the disputed domain name resolved to an error page.

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.

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the Complainant's CARREFOUR trademark. Firstly, the core and dominant element of the disputed domain name is "carrefour", which is identical to the Complainant's trademark CARREFOUR. The incorporation of "carrefour" as the main component in the disputed domain name suggests an association with the Complainant's trademark. Secondly, the inclusion of the element "-ci" in the disputed domain name does not sufficiently distinguish it from the CARREFOUR trademark. The similarity is further underscored by the fact that the two letters "CI" could refer to terms like "corporate identity", "Carrefour International", "customer insights", or "chief information", all of which are associated with the Complainant. Thirdly, the overall impression created by the disputed domain name is one of affiliation with the Complainant's trademark. Average Internet users are likely to perceive the disputed domain name as connected to or endorsed by the Complainant. This is particularly true given the Complainant's extensive global presence and strong brand recognition. Fourthly, UDRP panels have consistently found that minor modifications such

as the addition of hyphens, abbreviations, or descriptive terms do not prevent a finding of confusing similarity. In this case, the hyphen and the addition of the letters “ci” are minor modifications that do not significantly alter the perception of the disputed domain name from being associated with the Complainant’s trademark. The dominant element “carrefour” is identical to the trademark, and the addition of “ci” does not mitigate the likelihood of confusion.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Firstly, the Respondent’s use of the CARREFOUR trademark within the disputed domain name, without any authorization or license from the Complainant, is a clear indicator of the Respondent’s absence of rights or legitimate interests. Secondly, the disputed domain name is not being used for any active website or service; instead, it leads to an error page. This inactivity suggests a lack of any bona fide offering of goods or services. Directing to an error page does not demonstrate any purpose, noncommercial or otherwise, that would confer rights or legitimate interests. UDRP panels have found that passive holding of a domain name does not constitute a legitimate interest, especially when there is no demonstrable preparation to use the disputed domain name for a bona fide offering of goods or services. Thirdly, there is no evidence that the Respondent is commonly known by the disputed domain name. The CARREFOUR trademark is well-known and exclusively associated with the Complainant. Fourthly, the combination of “carrefour” and “ci” in the disputed domain name suggests an intent to mislead Internet users into believing there is an association with the Complainant’s well-known trademarks. In this situation, the Complainant asserts that it has successfully established a prima facie case indicating that the Respondent does not possess any rights or legitimate interests in the disputed domain name. This assertion is based on the evidence and arguments provided, which highlight the absence of any apparent legal or justifiable claim by the Respondent to the disputed domain name.

On the third element of the Policy, the Complainant asserts that the Respondent registered the disputed domain name in bad faith. Firstly, given the global recognition and long-standing use of the CARREFOUR trademark in commerce, it is highly implausible that the Respondent was unaware of the Complainant’s rights in the trademark at the time of registering the disputed domain name. The CARREFOUR trademark is not only well-known but has also been actively used for decades prior to the registration of the disputed domain name. Under the UDRP, the awareness of a trademark at the time of the disputed domain name’s registration, particularly when it is a distinctive or a widely recognized mark, is considered a critical indicator of bad faith. The fact that the CARREFOUR trademark has been registered in multiple jurisdictions strengthens the assertion that its fame would have been known to the Respondent. Secondly, the use of a privacy service by the Respondent to hide their identity is a factor considered by UDRP panels as indicative of bad faith, particularly when combined with other elements such as the lack of a legitimate interest and the fame of the complainant’s trademark. In this instance, the Respondent’s decision to use a privacy service suggests an intention to avoid detection and legal action by the Complainant. Concealing identity, especially in conjunction with the registration of a domain name involving a well-known trademark, is deemed consistent with bad faith.

Further, the Complainant asserts that the Respondent is using the disputed domain name in bad faith. Firstly, the concept of “passive holding” refers to situations where a domain name is not actively used, and it can still be considered as evidence of bad faith registration. The fact that the disputed domain name resolves to a default webpage provided by the Registrar, without any genuine use or legitimate purpose, is indicative of bad faith. Secondly, even if a domain name is not actively used, if there is evidence suggesting an intention to mislead or confuse consumers, it can contribute to a finding of bad faith. In this case, the intentional addition of the term “ci” in the disputed domain name implies an attempt to create confusion and benefit from the similarity to the well-known CARREFOUR trademark. Thirdly, even if the disputed domain name is currently not actively used for any apparent malicious purpose, the potential for future misuse and the creation of confusion can still be considered in determining bad faith. The passive holding of a domain name may represent a waiting game for future use to capitalize on the reputation of the CARREFOUR trademark. In summary, the passive holding of the disputed domain name that is confusingly similar to CARREFOUR, a well-known trademark, can still be indicative of bad faith registration and use, especially when considering factors such as the intentional misspelling, potential for future misuse, and the overall circumstances surrounding the registration.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely 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 in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is German. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons. The Complainant argues that the case at hand is an example of cybersquatting and imposing further financial obligations on the Complainant to translate the Complaint into German, would be unfair.

The Respondent did not make any specific submissions with respect to the language of the proceeding, albeit being notified in both German and English of the language of the proceeding, and of the Complaint.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see [WIPO Overview 3.0](#), section 4.5.1).

Having considered all the matters above, and being mindful of the need to ensure the proceeding is conducted in a timely and cost-effective manner, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 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 entirety of the mark is reproduced within the disputed domain name. The disputed domain name only differs from the CARREFOUR trademark by adding a hyphen and the two letters “CI”. The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, the hyphen and two letters “CI”) may bear on assessment of the second and third elements, the Panel finds the addition of such letters 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.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the CARREFOUR trademark. The Panel finds on the record that there are no indications that the Respondent is known by the disputed domain name or otherwise has any rights to or legitimate interests in the disputed domain name. Further, there are no evident preparations for the use of the disputed domain name for a bona fide offering of goods or services.

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.

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 (including an error page) 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 inter alia notes the distinctiveness and reputation of the CARREFOUR trademark, the composition of the disputed domain name (CARREFOUR trademark with the sole addition of a hyphen and the two letters “CI”), the failure to submit a response as well as the fact that the Respondent provided false or incomplete contact information in the Whois register for the disputed domain name since the Written Notice on the Notification of Complaint could not be delivered, and that there is no evidence of evident preparations for the use of the disputed domain name for a bona fide offering of goods or services.

The Panel 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.

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-ci.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: August 2, 2024