

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. David Olivares
Case No. D2024-2666

1. The Parties

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

The Respondent is David Olivares, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <carrefour-express.tech> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 27, 2024. On July 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 July 10, 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 June 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 2, 2024.

The Center appointed Cristian, L. Calderón Rodríguez as the sole panelist in this matter on August 6, 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 Carrefour. Carrefour is a public limited company registered in the trade and companies register of Evry (France) under number 652 014 051. Founded in 1959, the Complainant is a pioneer of the concept of hypermarkets back in 1963. The Complainant operates more than 12,000 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 undoubtedly a major and well-known worldwide leader in retail. The Complainant is listed on the index of the Euronext Paris Stock Exchange (CAC 40), and a Premium Partner of the Paris 2024 Olympic Games.

The Complainant owns numerous registered trademarks incorporating the term “carrefour” worldwide. In particular, the Complainant owns the following trademarks registered prior to the disputed domain name, hereinafter, “the trademarks” or “the trademark”:

- International Trademark Registration No. 191353 for CARREFOUR, in class 3, registered on March 9, 1956.
- United Kingdom Trademark No. 00905405832 for CARREFOUR EXPRESS, in classes 29, 30, 31, 32, 33, 35, registered on October 18, 2007.

The Complainant owns a significant number of domain names, including, for instance, the following ones:

- <carrefour.eu> registered on March 10, 2006.
- <carrefour.fr> registered on June 23, 2005.

All these domain names are used for business purposes. Furthermore, the Complainant also owns and uses <carrefour.net> registered on June 18, 2001, and <carrefour.com> registered on October 25, 1995, for corporate purposes.

The Complainant’s business identifiers enjoy a widespread and continuous reputation, as demonstrated in prior UDRP decisions stating that the Complainant and its Trademarks are widely well-known.

Considering the above, the Complainant respectfully asks the Panel to declare that the Complainant’s trademarks are well-known.

The registration of the disputed domain name occurred after the Complainant securing trademark rights for CARREFOUR:

- <carrefour-express.tech> registered on May 13, 2024.

The disputed domain name is not used.

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:

1. the disputed domain name is confusingly similar to the Complainant's trademarks as it includes the Complainant's trademark CARREFOUR in its entirety followed by the generic Top-Level Domain ("gTLD") ".tech";
2. the addition of the gTLD ".tech" to the disputed domain name does not avoid confusing similarity;
3. the Respondent has not been licensed or authorized to use the trademark CARREFOUR or any domain name including this trademark;
4. the Respondent has no rights or legitimate interests to use and register the disputed domain name as the Complainant has prior and exclusive rights on the name "Carrefour";
5. the disputed domain name resolves to an inactive webpage without any genuine use or legitimate purpose, is indicative of bad faith.;
6. the degree of reputation of the Complainant's trademarks and activities are such that the Respondent could not ignore the existence of the Complainant's prior rights; and
7. the fact that the Respondent has chosen as a domain name a known trademark is a clear indication that the use and registration of the disputed domain name was made in bad faith.

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.

Based on the available record, the Panel finds 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 entirety of the CARREFOUR trademark is reproduced within the disputed domain name, the additional term of "-express" would not prevent a finding of confusing similarity under the first element, which may however bear on assessment of the second and third elements. Similarly, with respect the CARREFOUR EXPRESS trademark, the entirety of the trademark is reflected save for the additional hyphen. Accordingly, the disputed domain name is confusingly similar to the trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and section 1.8.

The applicable generic Top-Level Domain ("gTLD") in a domain name (e.g. ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent lacks any rights or legitimate interests in the disputed domain name for several compelling reasons.

Firstly, the Respondent's use of the Complainant's trademarks 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 resolves to a blank webpage. The fact that the disputed domain name does not resolve to an active website or any content is indicative of passive holding. In UDRP cases, passive holding without a legitimate use or demonstrable preparations for use can contribute to the inference of a lack of rights or legitimate interests.

Thirdly, if the domain name is not being used in connection with a bona fide offering of goods or services, and there is no evidence of any legitimate noncommercial or fair use, it weakens the holder's claim to rights or legitimate interests. The inactive webpage, in this case, does not demonstrate any meaningful use or legitimate purpose.

Fourthly, if the holder of the domain name does not respond to the allegations or provide evidence of rights or legitimate interests after being presented with a complaint, it may contribute to the presumption of a lack of rights or legitimate interests. A lack of response implies an inability to counter the Complainant's arguments.

Fifthly, the lack of active use of the disputed domain name, combined with its similarity to a well-known trademark like CARREFOUR, raises concerns about potential misuse or the intent to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant's mark.

In conclusion, the lack of active use, combined with the absence of evidence demonstrating rights or legitimate interests, as well as the potential for confusion with a well-known trademark, provides a basis for arguing that the Respondent lacks rights or legitimate interests under the UDRP policy.

Finally, UDRP panels have reached the following consensus:

"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. 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.

In the current situation, the Complainant asserts that it has successfully established a preliminary case indicating that the Respondent does not possess any rights or legitimate interests in the disputed domain name. This assertion is grounded 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. Consequently, it is appropriate and in accordance with the procedural norms of the UDRP that the burden of production now be transferred to the Respondent.

In the present case, 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.

Having in mind the above, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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 and CARREFOUR EXPRESS 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 and the CARREFOUR EXPRESS trademark are not only well-known but have also been actively used for decades (especially CARREFOUR) prior to the registration of the disputed domain name. Under UDRP policy, the awareness of a trademark at the time of the 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 and CARREFOUR EXPRESS trademark have 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 rights or legitimate interests 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.

Thirdly, Panels have found that the non-use of a domain name (including a blank 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 notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, 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.

Therefore, the Panel finds the third element of the Policy has been established.

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-express.tech> be transferred to the Complainant.

/Cristian, L. Calderón Rodríguez /

Cristian, L. Calderón Rodríguez

Sole Panelist

Date: August 28, 2024