

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Fulham Fulham, Kaufmann Kaufmann
Case No. D2024-4376

1. The Parties

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

The Respondents are Fulham Fulham, Thailand and Kaufmann Kaufmann, Thailand.

2. The Domain Names and Registrar

The disputed domain names <carrefoursnsap.cc> and <carrefoursnsap.top> are registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2024. On October 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 25, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Redacted for privacy) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 25, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on October 28, 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 Respondents of the Complaint, and the proceedings commenced on October 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 18, 2024. The Respondents did not submit any response.

Accordingly, the Center notified the Respondents' default on November 19, 2024.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on November 22, 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 French retail company, which operates in more than 30 countries and pioneered the concept of hypermarket back in 1968.

The Complainant owns numerous trademark registrations in different regions of the world for the brand CARREFOUR, such as the International registration No. 351147, registered on October 2, 1968; and the International registration No. 353849, registered on February 28, 1969.

In addition, the Complainant also owns several domain names reflecting its trademark CARREFOUR, including <carrefour.com> (registered on October 25, 1995).

The Respondents are Fulham Fulham and Kaufmann Kaufmann.

The Respondents registered the disputed domain names <carrefoursnsap.cc> and <carrefoursnsap.top> on October 8, 2024.

The Panel accessed the disputed domain names on December 2, 2024, when they were not linked to any active website. However, the Complainant brought evidence that the disputed domain name <carrefoursnsap.cc> was recently linked to a login website where the Complainant's mark and logo were reproduced, misleading the average Internet user into believing that the disputed domain name and its content was directly operated by, authorized by, or affiliated with, the Complainant.

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:

- The disputed domain names are confusingly similar to the Complainant's trademark CARREFOUR. The Complainant, with extensive worldwide operations and numerous trademark registrations predating the disputed domain names, argues that the addition of the term "snsap" to its trademark in the disputed domain names does not lessen the likelihood of confusion. This affirmation is supported by various UDRP precedents indicating that the full incorporation of a trademark within a domain name can lead to confusion. Therefore, the Complainant contends that the first condition under the Policy for challenging the disputed domain names has been met, citing its widespread recognition and the distinctive nature of the CARREFOUR trademarks.
- The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Complainant conducted searches which confirmed that the Respondents do not own any trademarks for "Carrefour" or "Carrefoursnsap", thus lacking rights in the disputed domain names. There is also no evidence to suggest that the Respondents are commonly known by the disputed domain names. Furthermore, the Complainant highlights that the Respondents have used the Complainant's registered

trademarks in the disputed domain names without any license or authorization, indicating a clear lack of legitimate interest. Additionally, there is no evidence of the Respondents' use of the disputed domain names for a bona fide offering of goods or services; instead, one of the domain names hosted a website that illicitly used the Complainant's marks, misleading Internet users. The Complainant asserts that the Respondents have not made any legitimate noncommercial or fair use of the disputed domain names. Given the Complainant's longstanding use of its trademarks, which predates the registration of the disputed domain names, the burden of production falls on the Respondents to demonstrate any rights or legitimate interests, which they have not done. Thus, the Complainant has made a prima facie case that the Respondents lack rights or legitimate interests in the disputed domain names, fulfilling the second condition under the Policy.

- The disputed domain names were registered and are being used in bad faith. The Complainant argues that the specific composition of the disputed domain names and the use of its trademarks on the associated website indicate that the Respondents were fully aware of the Complainant's earlier rights and reputation. The Respondents deliberately registered the disputed domain names to confuse and mislead Internet users seeking the Complainant's services, diverting them for illegitimate purposes. The Complainant highlights that its trademark registrations predate the registration of the disputed domain names, further evidencing the Respondents' bad faith. The Respondents' actions occurred during an ongoing UDRP case involving similar issues, indicating that the Respondents knew or should have known that their registrations would infringe the Complainant's rights. The Complainant also argues that even though the disputed domain names currently lead to error pages, the doctrine of passive holding applies, as the non-use of the domain names does not negate bad faith. By registering and holding the disputed domain names, the Respondents prevent the Complainant from reflecting its name and trademark in corresponding disputed domain names, while creating a likelihood of confusion as to the source, sponsorship, or affiliation of the Respondents' websites. The Complainant further asserts that the Respondents concealed their identity by using aliases and fictitious contact details, which constitutes additional evidence of bad faith. The Complainant believes there is no conceivable good-faith use for the disputed domain names, considering the Respondents' actions and the Complainant's global reputation. In light of these factors, the Complainant concludes that the Respondents registered and are using the disputed domain names in bad faith, satisfying the third condition under the Policy.

B. Respondents

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

6. Discussion and Findings

6.1 Consolidation of Multiple Respondents

The Complainant made a request for the consolidation of the multiple Respondents, which was not challenged by the Respondents.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties.

Both disputed domain names reproduce the Complainant's trademark CARREFOUR together with the same suffix ("snsap"); were registered on the same date (October 8, 2024); using the same Registrar (Gname.com Pte. Ltd.); and informing email addresses set up under the same domain name. Accordingly, the circumstances of both disputed domain names disclose a pattern of common control.

Therefore, in light of the circumstances described above and of the evidence brought by the Complainant, the Panel accepts the consolidation request in the present case.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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.

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 names. [WIPO Overview 3.0](#), section 1.7.

Annex 4 to the Complaint shows numerous trademark registrations for CARREFOUR. 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 disputed domain names incorporate the Complainant's trademark CARREFOUR, with the addition of the term "snsap" as a suffix. The disputed domain names also respectively present the generic Top-Level Domain ("gTLD") extensions ".cc" and ".top".

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

It is also well established that the addition of a gTLD, such as ".cc" or ".top", is typically disregarded when determining whether a domain name is confusingly similar to a complainant's trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, the Panel finds the disputed domain names are confusingly similar to the Complainant's trademark and that 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 Respondents 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 Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have 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 names such as those enumerated in the Policy or otherwise.

The Panel finds no indication that the Respondents are commonly known by the disputed domain names.

The Complainant has asserted that the Respondents are not authorized representatives, nor have obtained any permission for registering the disputed domain names. The Panel finds that the nature of the disputed domain names, comprising the Complainant's famous trademark and the same additional letters, and the evidence of reproduction of the Complainant's logo at least in one of the websites connected to the disputed domain names, indicate an awareness of the Complainant and its trademark and an intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

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.

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.

The disputed domain names include the trademark CARREFOUR in its entirety. According to the [WIPO Overview 3.0](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Actually, when the disputed domain names were registered in 2024, the CARREFOUR trademark was already notorious and directly connected with the Complainant's retail services worldwide, including in Thailand.

The Panel concludes that it is unlikely that the Respondents were not aware of the Complainant's trademark and that the registration of the disputed domain names were a mere coincidence. Especially considering that the Complainant brought evidence that one of the disputed domain names recently was linked to a website reproducing the CARREFOUR brand and logo, making clear that the intent of the Respondents with the disputed domain names were to specifically target the Complainant's trademark.

The Panel holds that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website connected to the disputed domain name <carrefoursnsap.cc> .

The disputed domain names do not currently resolve to any active website. However, UDRP panels have frequently found that the apparent lack of so-called active use of the domain name (passive holding) does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); and *Polaroid Corporation v. Jay Strommen*, WIPO Case No. [D2005-1005](#).

The non-collaborative posture of the Respondents, i.e., (a) not presently using the disputed domain names, (b) not indicating any intention to use the disputed domain names, and (c) not at least providing justifications for the use of the Complainant's famous trademark, certainly cannot be used in benefit of the Respondent in this Panel's opinion, which circumstances, together with (d) the lack of any plausible justification for the adoption of the term "carrefoursnsap" by the Respondents and with (e) the recent reproduction of the Complainant's logo at one of the websites linked to one of the disputed domain names, are enough in this Panel's view to characterize bad faith registration and use in the present case.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain names constitute bad faith under 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 names <carrefoursnsap.cc> and <carrefoursnsap.top> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: December 6, 2024