

## ADMINISTRATIVE PANEL DECISION

Carrefour SA. v. zhiqiang guo

Case No. D2024-4433

### 1. The Parties

1.1 The Complainant is Carrefour SA., France, represented by IP Twins, France (the “Complainant”).

1.2 The Respondent is zhiqiang guo, United States of America (the “Respondent”).

### 2. The Domain Name and Registrar

2.1 The disputed domain name <carrefouruaed.shop> (the “Disputed Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

### 3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 29, 2024. On October 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 30, 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 October 30, 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 October 30, 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 October 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2024.

The Center appointed Ike Ehiribe as the sole panelist in this matter on November 28, 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. The Panel informed the Center of the need for an extension of the decision due date, and the Center informed the Parties accordingly on December 20, 2024, that the decision due date was extended to December 27, 2024.

#### **4. Factual Background**

4.1 The Complainant, Carrefour SA based in Paris, France is known as a worldwide leader in retail and a pioneer in the concept of hypermarkets. The Complainant generated a turnover of EUR 76 billion in 2018 and is listed on the Paris Stock Exchange. The Complainant operates in more than 30 countries with more than 12,000 stores worldwide. The Complainant additionally offers travel, banking, insurance and or ticketing services. The Complainant also owns numerous trademark rights worldwide for instance the Complainant registered the following trademarks before the registration of the Disputed Domain Name such as: (a) “European Union” trademark CARREFOUR No. 008779498, registered on July 13, 2010, duly renewed and designating goods in “International” class 35; (b) “International” trademark CARREFOUR No. 563304 registered on November 6, 1990, duly renewed and designating goods in International classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42; (c) “French” trademark CARREFOUR No. 1565338 registered on May 25, 1990, duly renewed, and designating goods in International classes; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34; (d) “United States of America” trademark CARREFOUR No. 6763415 registered on June 21, 2021, duly renewed and designing goods in International class 35. The Complainant also owns numerous domain names incorporating the CARREFOUR trademark such as <carrefour.com> registered on October 25, 1995, and <carrefour.fr> registered on June 23, 2005, which the Complainant uses to promote its products and services. The Complainant has a significant presence on the internet considering that its Facebook page is liked by more than 11 million Internet users, and 6.2 million Internet users liking the CARREFOUR TikTok account.

4.2 The Respondent herein is said to be based in the United States of America. According to the Whois record, the Disputed Domain Name <carfouraed.shop> was registered on October 2, 2024, and it resolves to an error page.

#### **5. Parties’ Contentions**

##### **A. Complainant**

5.1 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 Name wholly incorporates the CARREFOUR trademark such that the only difference between the trademark and the Disputed Domain Name is the addition of four random letters namely, “uaed” and the generic Top-Level Domain (“gTLD”) “.shop”. It is submitted that the addition of a suffix to the trademark CARREFOUR does not significantly affect the appearance or pronunciation of the Disputed Domain Name. Thus, it is further submitted that a Disputed Domain Name that consists of an intentional misspelling of this nature must be regarded as confusingly similar to the Complainant’s trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9.

Secondly, the incorporation of a well-known trademark in its entirety in a domain name has been held to be sufficient to establish confusing similarity with the Complainant’s trademark. See for example *Carrefour v. Contact Privacy Inc. Customer 0152812191/ Mien Radumilo, Milan Radimulo*, WIPO Case No. [D2019-0670](#).

The Complainant therefore asserts that the Disputed Domain Name is confusingly similar to the Complainant's trademark.

5.2 The Complainant contends that the Respondent lacks rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy. The Complainant asserts that the Respondent has never been authorised by the Complainant to use the CARREFOUR trademark in any manner nor was the Respondent given consent to register the Disputed Domain Name. Furthermore, it is said that the Respondent is not a partner, distributor or licensee of the Complainant nor is there any contractual or commercial relationship between the Complainant and the Respondent which could eventually legitimatise the registration and use of the Disputed Domain Name by the Respondent. It is submitted that the Complainant has not found any evidence to suggest that the Respondent has been commonly known by the Disputed Domain Name as an individual, business, or other organisation. In addition, the Complainant asserts that the Respondent has not used or made any preparations to use the Disputed Domain Name in relation to a bona fide offering of goods and services. Finally, it is submitted that since the Respondent has no legitimate interests nor rights in the Disputed Domain Name the Respondent bears the burden of proof to establish any rights or legitimate interests in the Disputed Domain Name following *Croatia Airlines d.d. v. Modern Empire Internet Ltd*, WIPO Case No. [D2003-0455](#).

5.3 On the question of bad faith registration and use, the Complainant asserts that the Respondent has registered the Disputed Domain Name and it is being used in bad faith for the following reasons: Firstly, since the CARREFOUR trademark was first registered in 1968 it is most likely that the Respondent was aware of the Complainant's trademark at the time the Disputed Domain Name was registered. As the Respondent intended to exploit the Complainant's worldwide reputation to mislead internet users. Secondly, as the Complainant's trademarks were all registered before the creation of the Disputed Domain Name, a quick trademark search would have revealed to the Respondent the existence of the Complainant and its trademarks, therefore, the failure of the Respondent to do so is a contributory factor in its bad faith use. See *Lancome Perfumes Et Beaute & Cie, L'Oreal v. 10 Selling*, WIPO Case No. [D2008-0226](#). Thirdly, the Complainant asserts that the Respondent created the Disputed Domain Name in order as to resell it to the Complainant later or to prevent the Complainant from using it. The Respondent's motive in this regard it is said, is also evidence of bad faith registration.

5.4 With specific reference to bad faith use, the Complainant asserts that the Disputed Domain Name has been inactive in the web, only resolving to an error page. Thus, the Complainant submits that inactivity in addition to the lack of legitimate use could suggest an intention to profit from the Complainant's CARREFOUR trademark. Secondly, it is contended that since the Disputed Domain Name incorporates the CARREFOUR trademark thereby creating the false impression that the Respondent is affiliated to the Complainant, Internet users could mistakenly believe that they are visiting an official website belonging to or affiliated to the Complainant thereby disturbing the Complainant's commercial activities. Thirdly, it is argued that the non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

## **B. Respondent**

5.5 The Respondent did not reply to the Complainant's contentions and therefore the Panel shall draw such adverse inferences from the Respondent's failure to respond as may be deemed appropriate.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

6.1 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. 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 such as “uaed” and the gTLD “.shop” may have a bearing on the assessment of the second and third elements, the Panel finds the addition of such term, and the gTLD 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**

6.2 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**

6.3 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 observes that the Respondent registered the Disputed Domain Name on October 2, 2024, a date that clearly postdates the registration of the Complainant’s numerous CARREFOUR trademarks. The Disputed Domain Name clearly incorporates the Complainant’s trademark. Therefore, the Panel finds that the Respondent was aware or ought to have been aware of the Complainant and its numerous trademarks when registering the Disputed Domain Name and intentionally set out to exploit the worldwide reputation of the Complainant’s trademarks or disrupt the Complainant’s business.

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 a blank, error or “coming soon” 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 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.

The Panel finds that the Complainant has established the third element of the Policy.

## **7. Decision**

7.1 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 <carrefouraed.shop> be transferred to the Complainant.

*/Ike Ehiribe/*

**Ike Ehiribe**

Sole Panelist

Date: December 24, 2024