

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Elhadji Ndiaye
Case No. D2024-4448

1. The Parties

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

The Respondent is Elhadji Ndiaye, Senegal.

2. The Domain Name and Registrar

The disputed domain name <carrefourbusiness-shop.com> 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 October 30, 2024. On October 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 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 November 2, 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent sent eight informal email communications in French to the Center on November 1, 8, 19 and 21, 2024.

On November 25, 2024, upon the suspension request of the Complainant, the proceeding was suspended for purposes of settlement discussions. On December 27, 2024, the proceeding was reinstated at the request of the Complainant. The new Response due date was January 1, 2025. No further communication was received from the Respondent. Accordingly, the Center notified the Parties of the commencement of the Panel appointment process on January 3, 2025.

The Center appointed Assen Alexiev as the sole panelist in this matter on January 13, 2025. 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 public limited company established in 1959. It operates more than twelve thousand stores in more than 30 countries with more than 384,000 employees, and has 1.3 million daily unique visitors in its webstores.

The Complainant is the owner of the following trademark registrations for the sign “CARREFOUR” (the “CARREFOUR trademark”):

- the International trademark CARREFOUR with registration No. 191353, registered on March 9, 1956 for goods in International Class 3;
- the International trademark CARREFOUR with registration No. 353849, registered on February 28, 1969 for services in International Classes 35, 36, 37, 38, 39, 40, 41, and 42; and
- the European Union trademark CARREFOUR with registration No. 005178371, registered on August 30, 2007 for goods and services in International Classes 9, 35, and 38.

The Complainant is also the owner of the domain names <carrefour.com>, registered on October 25, 1995; <carrefour.eu>, registered on March 10, 2006; <carrefour.fr>, registered on June 23, 2005; and <carrefour.sn>, registered on May 31, 2020.

The disputed domain name was registered on July 22, 2024. It resolves to a commercial website with the title “Carrefour Business Company”, offering for sale various fabrics, clothing, school supplies, and cosmetics. The website includes the copyright notice “© 2024 Carrefour Business” and contains no information about the provider of the website apart from a phone number in Senegal.

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.

The Complainant states that the disputed domain name is confusingly similar to its CARREFOUR trademark, because it fully incorporates the trademark in combination with the English dictionary words “business” and “shop”, which suggest commercial services that align with the Complainant’s retail and business operations and do not diminish the dominant and recognizable presence of the CARREFOUR trademark. Rather, they suggest an official or authorized extension of the Complainant’s business activities, increasing the likelihood of confusion with the trademark.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because its use of the CARREFOUR trademark in the disputed domain name misleadingly suggests an affiliation or endorsement by the Complainant and exploits the reputation of its trademark to attract Internet users, despite the absence of any legitimate business relationship between the Parties. The Complainant notes that the Respondent is not commonly known by the CARREFOUR trademark, and the Complainant has not authorized it to use this trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the CARREFOUR trademark is widely recognized and has a substantial international reputation in retail and commercial sectors, including in Senegal where the Respondent is located. According to it, it is unlikely that the Respondent was unaware of the Complainant's trademark when registering the disputed domain name. The Complainant points out that, the fact that the Respondent has created a commercial website under the disputed domain name that incorporates the Complainant's trademark shows that the Respondent has registered the disputed domain name with an intent to exploit the reputation of the trademark to divert Internet users looking for the Complainant's services.

The Complainant adds that by using privacy services for the registration of the disputed domain name, the Respondent has sought to avoid accountability and prevent the Complainant from identifying or directly contacting it.

B. Respondent

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

In its informal letters to the Center, the Respondent made the following statements in French that are relevant to the substance of the dispute:

“Je vous informe que le domaine carrefourbusiness-shop appartient à une cliente pour laquelle j'ai conçu un site web. Je ne suis donc pas concerné par vos démarches à l'encontre de ce domaine. Par ailleurs, votre comportement constitue du harcèlement ; vous m'appelez en boucle depuis ce matin sans même daigner vous exprimer. Je connais parfaitement mes droits, et la propriétaire de carrefourbusiness-shop est en toute légalité au Sénégal.” (in English: “I would like to inform you that the domain carrefourbusiness-shop belongs to a client for whom I have designed a website. I am therefore not concerned by your actions against this domain. Moreover, your behavior constitutes harassment; you've been calling me non-stop since this morning without even bothering to express yourself. I know my rights perfectly well, and the owner of carrefourbusiness-shop is operating legally in Senegal.”)

“Je prends note de votre communication relative à la plainte concernant le nom de domaine carrefourbusiness-shop.com. Tout en respectant les principes énoncés dans le règlement des litiges UDRP, je souhaite clarifier quelques points en vue d'une résolution constructive. Tout d'abord, je tiens à souligner la distinction entre carrefour.com et carrefourbusiness-shop.com. Les différences entre ces deux domaines sont non seulement significatives, mais elles reflètent également des activités distinctes, avec des audiences et des objectifs séparés. Il est également important de se demander pourquoi tous les domaines relatifs au nom Carrefour n'ont pas été acquis afin d'éviter ce genre de situations. En effet, la pluralité des déclinaisons possibles d'un nom aussi générique peut laisser place à des activités commerciales légitimes et indépendantes. Si Carrefour considère que toutes les variations du nom doivent lui être réservées, il aurait peut-être été opportun de sécuriser les extensions principales dès le départ. Je reste à disposition pour toute discussion afin de parvenir à une issue amiable dans l'intérêt de toutes les parties concernées.” (in English: “I have taken note of your communication regarding the complaint concerning the domain name carrefourbusiness-shop.com. While respecting the principles set out in the UDRP, I would like to clarify a few points with a view to a constructive resolution. First of all, I would like to emphasize the distinction between carrefour.com and carrefourbusiness-shop.com. The differences between these two domains are not only significant, they also reflect distinct activities, with separate audiences and objectives. It is also important to ask why all the domains relating to the Carrefour name were not acquired, in order to avoid this kind of situation. Indeed, the plurality of possible variations of such a generic name can leave room for

legitimate and independent commercial activities. If Carrefour considers that all variations of the name should be reserved for it, it might have been advisable to secure the main extensions from the outset. I remain at your disposal for any discussions you may have in order to reach an amicable resolution in the interests of all parties concerned.”)

“Je tiens à vous rappeler que le nom de domaine carrebusiness-shop.com ne m’appartient pas et cela appartient à une cliente. Donc si vous m’envoyez un colis dhl je ne la prendrai pas. Ce que vous faites c’est du harcèlement. Je n’ai pas de temps pour vos details.” (in English: “I would like to remind you that the carrebusiness-shop.com domain name does not belong to me and it belongs to a customer. So if you send me a DHL package I will not take it. What you are doing is harassment. I don’t have time for your details.”)

“Je tiens à vous rappeler que le domaine carrebusiness-shop.com ne m’appartient pas. Je suis simplement webmaster. Par ailleurs, des milliers d’entreprises au Sénégal utilisent le nom commercial “Carrefour”. Je ne saurais donc accepter la réception d’aucun colis envoyé à mon intention.” (in English: “I would like to remind you that the carrebusiness-shop.com domain does not belong to me. I am simply a webmaster. Furthermore, thousands of companies in Senegal use the trade name “Carrefour”. I therefore cannot accept receipt of any parcel sent to me.”)

“Après discussion avec Ramata Samb la propriétaire du site web carrefourbusiness-shop.com, vous pouvez demander un transfert ou suppression du domaine.” (in English: “After discussion with Ramata Samb, the owner of the website carrefourbusiness-shop.com, you can request a transfer or deletion of the domain.”)

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

The Panel finds the CARREFOUR trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the CARREFOUR trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

The Respondent’s allegation that the Complainant’s domain name <carrefour.com> is different from the disputed domain name and is used for distinct activities, with separate audiences and objectives, is irrelevant for the discussion under the first element of the Policy.

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 disputed domain name is confusingly similar to the CARREFOUR trademark, which was registered decades earlier and has been used extensively by the Complainant for its retail business with a network of thousands of supermarkets in many countries worldwide, including Senegal, where the Respondent is based. The disputed domain name is used for a commercial website offering for sale retail goods similar to those offered by the Complainant. The title and copyright notice of the Respondent’s website include the CARREFOUR trademark and do not contain any disclaimer regarding the lack of relationship between the Parties. All of this supports a finding that the Respondent registered the disputed domain name with the knowledge of the Complainant (which in any event is not disputed) and that it is more likely than not that the registration and subsequent use of the disputed domain name is motivated by an intent to exploit the notoriety of the Complainant’s trademark by misleading Internet users into believing that there is some type of relationship with the Complainant.

The Respondent has not provided any evidence that a business entity called “Carrefour Business Company” actually exists, and its claim that thousands of companies in Senegal use the trade name “Carrefour” does not appear credible and does not explain how this could entitle it to use the Complainant’s trademark. The Respondent’s assertion that the disputed domain name belongs to an unidentified customer is an indication that the Respondent itself does not claim to have any rights or legitimate interests in the disputed domain name, while its assertion that the disputed domain name is used for a business that is different from the Complainant’s business and has different customers is contradicted by the evidence in the case.

Taking all the above into account, the Panel finds that the Complainant has established that the Respondent does not have rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that 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 registered the disputed domain name decades after the registration of the popular trademark CARREFOUR and used it for a website carrying out retail sales of various goods such as fabrics, clothing, school supplies, and cosmetics. This activity is similar as that of the Complainant and its conduct under a domain name confusingly similar to the Complainant’s CARREFOUR trademark is likely to mislead Internet users into believing that there is any connection with the Complainant. The Respondent has not provided a plausible explanation for its actions or convincing arguments as to why its activities should be considered to be in good faith.

The above leads the Panel to the conclusion that, by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website at the disputed domain name by creating a likelihood of confusion with the Complainant's CARREFOUR trademark as to the affiliation or endorsement by the Complainant of the Respondent's website, which supports a finding of registration and use in bad faith under paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel notes that the Respondent is claiming not to be the owner of the disputed domain name (without providing evidence) and has forwarded the communication to the person claiming to be the owner who has agreed to transfer the disputed domain name.

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 <carrefourbusiness-shop.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: January 15, 2025