

## ADMINISTRATIVE PANEL DECISION

Carrefour SA v. YIGIT TANITOGLU

Case No. D2024-4674

### 1. The Parties

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

The Respondent is YIGIT TANITOGLU, Türkiye.

### 2. The Domain Names and Registrar

The disputed domain names <carrefoursasuper.com> and <carrefoursuper.com> are registered with IHS Telekom, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 13, 2024. On November 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 14, 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 Respondent (GDPR MASKED) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 15, 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 22, 2024.

On November 15, 2024, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain names is Turkish. On November 22, 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 in both English and Turkish, and the proceedings commenced on November 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 18, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on December 23, 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, founded in 1959, is a widely-known operator of super- and hypermarkets with more than 12,000 stores in over 30 countries, including in Türkiye.

The Complainant has long-standing trademark rights in the trademark CARREFOUR. Among many others, the Complainant is the registered owner of the International Trademark Registration No. 351147, registered on October 2, 1968, for CARREFOUR, covering protection for various goods as protected in classes 1 to 34.

The Complainant also owns and operates various domain names comprising its CARREFOUR trademark, such as <carrefour.com> and <carrefour.eu>. The Complainant further uses the domain name <carrefoursa.com> as its official webstore in Türkiye.

The disputed domain names were both registered on September 30, 2024.

The Respondent is reportedly located in Türkiye.

According to the unrebutted evidence provided by the Complainant, the disputed domain names have so far not been actively used and do resolve to almost empty websites with no offer or content, except the indication of an index and a link that resolves 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 names.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **6.1. Language of the Proceeding**

The language of the Registration Agreement for each disputed domain name is Turkish. 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, including the fact that the Complainant has no knowledge of Turkish and that filing a translation of the Complaint would be time and costs intensive.

The Respondent did not make any specific submissions with respect to the language of the proceeding, even though communicated by the Center in Turkish and English.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above and bearing in mind that the Respondent has not objected the Complainant's request concerning the language of the proceeding, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## **6.2. Substantive Issues**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel might, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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

The entirety of the CARREFOUR mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the CARREFOUR mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here respectively “super” and “sa”, 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 names 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.

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 names. Particularly, the Complainant put forward that the Respondent is neither an authorized business partner of the Complainant nor a licensee of its CARREFOUR trademark and that the Respondent is not commonly known by the terms “carrefour super”, “carrefour sa super” or any other similar terms. 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 names 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.

In the present case, the Panel notes that the Respondent must have had the Complainant and its CARREFOUR trademark in mind when registering the disputed domain names, particularly considering the inherently misleading composition of the disputed domain names, each of them comprising the Complainant’s widely-known CARREFOUR trademark in its entirety. Further, the disputed domain names <carrefoursasuper.com> and <carrefoursuper.com> are also confusingly similar to the Complainant’s own domain name used for its commercial activities in Türkiye. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain names to target the Complainant.

As regards bad faith use, the Panel notes that the disputed domain names have not yet been actively used and do not resolve to active websites.

Panels have found that the non-use of a domain name (including a blank or landing 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 and reputation of the Complainant's CARREFOUR trademark, and the inherently misleading composition of the disputed domain names and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Taking all facts of the case into consideration, the Panel finds that the disputed domain names were registered and are being used in bad faith. The Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

Consequently, 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 names <carrefoursasuper.com> and <carrefoursuper.com> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: January 6, 2025