

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. 胡雪 胡雪 (Ni Cary)

Case No. D2024-4795

1. The Parties

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

The Respondent is 胡雪 胡雪 (Ni Cary), China.

2. The Domain Name and Registrar

The disputed domain name <carrefour.website> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on November 20, 2024. On November 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 21, 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/ Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 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 in English on November 25, 2024.

On November 22, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name shall be Chinese. On November 25, 2024, the Complainant requested English to 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 English and Chinese, and the proceedings commenced on December 2, 2024. In accordance

with the Rules, paragraph 5, the due date for Response was December 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified of the Respondent's default on December 23, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on December 27, 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, CARREFOUR SA, is a public limited company registered in the trade and companies register of Evry (France) under number 652014051. Founded in 1959, the Complainant pioneered the concept of hypermarkets as early as 1963. The Complainant operates over 12,000 stores in more than 30 countries with more than 384,000 employees worldwide. It has 1.3 million daily unique visitors to its webstores and an annual turnover of around EUR 80 billion.

The Complainant has an extensive global portfolio of trade marks incorporating the name CARREFOUR, including the following:

- International Trade Mark Registration No. 191353 in Class 3, designating inter alia Benelux Office for Intellectual Property, Spain, and Italy, registered on March 9, 1956;
- International Trade Mark Registration No. 351147 in Classes 1 – 34, designating inter alia Benelux Office for Intellectual Property, Spain, Italy, and Monaco, registered on October 2, 1968;
- International Trade Mark Registration No. 353849 in Classes 35 – 42, designating inter alia Benelux Office for Intellectual Property, Czech Republic, Spain, Croatia, Hungary, Italy, and Liechtenstein, registered on February 28, 1969; and
- European Union Trade Mark Registration No. 005178371 in Classes 9, 35, and 38, registered on August 30, 2007.

The disputed domain name was registered on October 18, 2024.

According to evidence provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a third-party registrar's webpage indicating "This domain is registered, but may still be available." and "Get this domain". At the time of issuance of this Decision, the disputed domain name resolves to a third-party registrar's webpage encouraging visitors to secure ownership of the disputed domain name by sending a paid inquiry.

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 name registered by the Respondent is identical or confusingly similar to the Complainant's CARREFOUR trade marks, and that the addition of the generic Top-Level Domain ("gTLD") ".website" does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant's trade marks.

The Complainant asserts that it has not authorized the Respondent to use the CARREFOUR mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the CARREFOUR mark in any way, and that there is no plausible good faith reason for the Respondent to have registered the disputed domain name. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

"[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should be Chinese.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for the following reasons:

- English is widely recognized as the universal language of international commerce and dispute resolution, thus conducting the proceeding in English would not only align with this principle but also ensure accessibility and efficiency in addressing the dispute; and
- Requiring the Complainant to translate the Complaint and accompanying evidence into the language of the Registration Agreement would result in unnecessary delay and expense, especially given the lack of active use of the disputed domain name by the Respondent.

The Respondent was notified in both Chinese and English of the language of the proceeding and the commencement of the proceeding and did not comment on the language of the proceeding or submit any response in either Chinese or English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel must judiciously and in the spirit of fairness take into account all relevant circumstances of the case, including 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).

Considering the circumstances of this case, the Panel determines that the language of the proceeding shall be English, and as such, the Panel has issued this decision in English. The Panel finds that this determination should not create any prejudice to either Party and should ensure that the proceeding takes place with due expedition.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel acknowledges that the Complainant has established rights in the CARREFOUR trade marks in many jurisdictions around the world.

Disregarding the gTLD “.website”, the disputed domain name incorporates the Complainant’s trade mark CARREFOUR in its entirety. Thus, the disputed domain name should be regarded as identical to the Complainant’s CARREFOUR trade mark. [WIPO Overview 3.0](#), sections 1.7.

The Panel therefore finds that the Complainant satisfies the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the CARREFOUR trade mark and in showing that the disputed domain name is identical to its mark.

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.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been provided to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services.

There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant’s prima facie showing of the Respondent’s lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel’s findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

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 states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also 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).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the CARREFOUR trade marks were already widely known and directly associated with the Complainant's activities. Panels have consistently found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

The Respondent's offer to sell the disputed domain name also indicates under the circumstances bad faith intention to profit from the resale of the disputed domain name to the Complainant at a price likely exceeding the Respondent's out-of-pocket expenses related to the disputed domain name. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(i) of the Policy.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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.website> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: January 6, 2025