

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Dorothy Killian
Case No. D2024-4808

1. The Parties

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

The Respondent is Dorothy Killian, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <escarrefour.com> is registered with Hongkong Kouming International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 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 22, 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 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 is 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 in English and Chinese of the Complaint, and the proceedings commenced on November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 17, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on January 6, 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 one of the leading operators of hypermarkets under the name CARREFOUR. Currently, it operates more than 12,000 stores in over 30 countries. It has more than 1.3 million unique visitors to its webstores daily and an annual turnover of around EUR 80 billion. It is listed on the index of the Euronext Paris Stock Exchange and was a Premium Partner of the Paris 2024 Olympic Games.

The Complainant owns numerous trade mark registrations for CARREFOUR all over the world including the following:

- International Trade Mark Registration No. 191353 for CARREFOUR, registered on March 9, 1956;
- International Trade Mark Registration No. 351147 for CARREFOUR, registered on October 2, 1968;
- and
- European Union Trade Mark Registration No. 005178371 for CARREFOUR, registered on August 30, 2007 (individually and collectively, the "Trade Mark").

The Complainant also owns and uses numerous domain names which comprise the Trade Mark including <carrefour.com>, <carrefour.net>, <carrefour.es>, and <carrefour.eu>. The Complainant has a significant online presence across multiple social media platforms. Its Facebook France account has 12 million followers while LinkedIn has 1.2 million followers.

The Respondent appears to be based in the United States, according to the registrant information provided by the Registrar. The disputed domain name was registered on November 11, 2024. The disputed domain name is connected to a website (the "Website") which displays the Trade Mark as well as the Complainant's logo (the "Logo") prominently and mimics the Complainant's own website. The Website is entirely in the Spanish language. It is an active commercial website and offers a significant number of products on sale. The Website includes an active shopping basket feature and also invites users to subscribe to the Website.

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 is confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used 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 Proceedings

The language of the Registration Agreement for the disputed domain name is Chinese. 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 the following main reasons:

- The Respondent's intent is to complicate and delay the resolution of the proceeding when it chose to register the disputed domain name with a Registrar that operates exclusively in Chinese notwithstanding the fact that she does not have any obvious connection to the location of the Registrar, or the languages given that she is based in the United States and the Website is in Spanish. Such behaviour is consistent with cybersquatting practices where respondents attempt to exploit procedural hurdles to avoid accountability.
- English is the most practical and neutral language as it is an international language and suitable for resolving disputes with transnational elements.
- The activities of the Respondent are typical of cybersquatters and it would be unduly onerous on the Complainant to have to bear the additional costs and associated delays if it has to translate the Complaint.

The Respondent has not challenged the Complainant's language request and in fact has failed to file a response in either English or Chinese despite being duly notified by the Center in both English and Chinese of the language of the proceedings and of the commencement of the proceedings.

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, the Panel determines under paragraph 11(a) of the Rules that the language of the proceedings shall be English.

6.2. Substantive Issues

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

While the addition of the letters "es" as a prefix to the Trade Mark may bear on assessment of the second and third elements, the Panel finds the addition of the letters does not prevent a finding of confusing similarity between the disputed domain name and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant particularly since it is confusingly similar to the Trade Mark and almost identical to the Complainant’s domain name <carrefour.com>. The only difference is the addition of the ISO country code for Spain, “es”, before the Trade Mark which is likely to be understood as the Spanish version of the Complainant’s website. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the Respondent must have been aware of the Trade Mark when she registered the disputed domain name given the reputation of the Trade Mark which was registered decades prior to registration of the disputed domain name and the use of the Trade Mark, Logo and images of the Complainant’s store on the Website. It is therefore implausible that the Respondent was unaware of the Complainant when she registered the disputed domain name.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent's choice of the disputed domain name without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The disputed domain name falls into the category stated above and the Panel finds that registration is in bad faith.

The disputed domain name is also being used in bad faith. The unauthorised use of the Trade Mark, Logo and images of the Complainant's store on the Website are clear indications of use for potentially illegitimate activity.

The Website prominently displays the Trade Mark, without any disclaimer disclosing (the lack of) relationship between the Parties. The content of the Website is calculated to give the impression it has been authorised by or connected to the Complainant when this is not the case. The Website was set up to deliberately mislead Internet users into believing that it is connected to, authorised by, or affiliated with the Complainant. From the above, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Website by misleading them into believing that the Respondent's Website was, and the services offered on it are, those of or authorised or endorsed by the Complainant.

It is highly likely that Internet users when typing the disputed domain name into their browser or finding it through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The disputed domain name is likely to confuse Internet users trying to find the Complainant's official website. Such confusion will inevitably result due to the fact that the disputed domain name comprises the Trade Mark in its entirety.

The fact that there is an active shopping basket feature enables the Respondent to collect users' sensitive personal information such as credit card details and other payment data. The invitation to users to subscribe to the Website also presents a serious risk of phishing. Collection of personal information by impersonating a reputable brand owner exposes users to significant harm including identity theft and financial fraud which is clearly bad faith activity.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith under paragraph 4(b)(iv) of the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <escarrefour.com> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: January 20, 2025