

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Rogers Marcos, Marcos S Rogers  
Case No. D2024-4873

### **1. The Parties**

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

The Respondent is Rogers Marcos, Marcos S Rogers, United States of America ("United States").

### **2. The Domain Name and Registrar**

The disputed domain name <shop-carrefour.com> is registered with Hongkong Kouming International Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 26, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On November 29, 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 December 2, 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 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 December 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 25, 2024.

The Center appointed Linda Chang as the sole panelist in this matter on January 5, 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 worldwide leader in retail and a pioneer of the concept of hypermarkets. The Complainant claims that it operates more than 12,000 stores in more than 30 countries and has more than 384,000 employees worldwide and 1.3 million unique daily visitors in its stores. The Complainant is listed on the index of the Paris Stock Exchange (CAC 40). Additionally, the Complainant has 11 million followers on Facebook.

The Complainant has numerous trademark registrations for CARREFOUR, including:

- The European Union trademark CARREFOUR Registration No. 008779498, registered on July 13, 2010, in Class 35;
- The International trademark CARREFOUR Registration No. 563304, registered on November 6, 1990, in 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, 42;
- The France trademark CARREFOUR Registration No. 1565338, registered on May 25, 1990, in 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;
- The United States trademark CARREFOUR Registration No. 6763415, registered on June 21, 2022, in Class 35.

The Complainant owns domain name <carrefour.com>, registered on October 25, 1995, and domain name <carrefour.fr>, registered on June 23, 2005.

The disputed domain name <shop-carrefour.com> was registered on November 9, 2024, and resolves to a website displaying the Complainant's CARREFOUR trademark and purportedly offering products bearing "Carrefour" in their titles.

#### **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:

- i) the disputed domain name contains the CARREFOUR trademark in its entirety and is confusingly similar to the CARREFOUR trademark;
- ii) the Complainant has not authorized the Respondent to use the CARREFOUR trademark for any reason or in any manner;
- iii) the Respondent has not been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name;

- iv) the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate noncommercial or fair use;
- v) the Respondent had the Complainant and the CARREFOUR trademark in mind at the time of registering the disputed domain name;
- vi) the Respondent has intention to take profit from the Complainant's CARREFOUR trademark by creating confusion between itself and the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Language of the Proceeding**

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 several reasons, including the fact that: 1) the Complainant is unable to communicate in Chinese, and using Chinese as language of the proceeding would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter; 2) the disputed domain name contains the English word "shop" and the website associated with the disputed domain name contains text in English, which indicates that the Respondent is able to understand English; 3) English is widely used in international legal proceedings.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

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 proceeding shall be English.

### **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.

Based on the available records, 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 generic Top-Level Domain ("gTLD") suffix ".com" as a standard registration requirement should be disregarded in the assessment of confusing similarity under the Policy.

The entirety of the CARREFOUR trademark is reproduced within the disputed domain name. While the term “shop” and a hyphen “-” are included, the CARREFOUR trademark remains clearly recognizable in the disputed domain name. The Panel finds that the extra term and hyphen do not prevent the confusing similarity between the disputed domain name and the CARREFOUR trademark. Accordingly, the disputed domain name is confusingly similar to the CARREFOUR trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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.

The information in the case files shows that:

- the disputed domain name resolves to a website displaying the Complainant’s CARREFOUR trademark and purportedly offering products bearing “Carrefour” in their titles, which cannot be deemed as a bona fide offering of goods or services or a legitimate noncommercial or fair use;
- there is no evidence proving that the Respondent has been commonly known by the disputed domain name; and
- no other factors demonstrate the rights or legitimate interests of the Respondent in the disputed domain name.

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**

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 Complainant obtained the trademark registration for CARREFOUR as early as in 1990, which significantly predates the registration date of the disputed domain name (November 9, 2024). The CARREFOUR trademark has gained a certain degree of reputation and distinctiveness through the Complainant’s continuous use and advertising worldwide. The Respondent registered the disputed domain name that fully incorporates the Complainant’s CARREFOUR trademark and

the extra term “shop” which closely relates to the Complainant’s core business and directs it to a website displaying the Complainant’s CARREFOUR trademark and purportedly offering products bearing “Carrefour” in their titles. The Panel determines that the Respondent had actual knowledge of the Complainant and the CARREFOUR trademark at the time of registering the disputed domain name, and bad faith is found.

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.

The Respondent selected disputed domain name confusingly similar to the Complainant’s CARREFOUR trademark and uses it in the manner as described above. The Panel holds that the Respondent apparently attempted to attract, for commercial gain, Internet users to the disputed domain name and the associated website by creating a likelihood of confusion with the Complainant’s CARREFOUR trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

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

*/Linda Chang/*

**Linda Chang**

Sole Panelist

Date: January 27, 2025