

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Mary Cay Clark, TOWERING ORDER LLC  
Case No. D2024-5000

### **1. The Parties**

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

The Respondent is Mary Cay Clark, TOWERING ORDER LLC, United States of America.

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

The disputed domain name <carrefour-store.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2024. On December 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 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 (Unkown) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 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 December 6, 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 December 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 2, 2025.

The Center appointed Linda Chang as the sole panelist in this matter on January 9, 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, founded in 1959, is 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, 1.3 million daily unique visitors in its webstores, and a turnover around 80 billion euros every year. The Complainant is listed on the index of the Euronext Paris Stock Exchange (CAC 40) and was a Premium Partner of the Paris 2024 Olympic Games. Additionally, the Complainant has over 12 million followers on Facebook and over 1 million followers on LinkedIn.

The Complainant has numerous trademark registrations for CARREFOUR, including:

- The International trademark CARREFOUR Registration No. 191353, registered on March 9, 1956, in Class 3;
- The International trademark CARREFOUR Registration No. 351147, registered on October 2, 1968, in Class 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 International trademark CARREFOUR Registration No. 353849, registered on February 28, 1969, in Class 35, 36, 37, 38, 39, 40, 41, 42; and
- The European Union trademark CARREFOUR Registration No. 005178371, registered on August 30, 2007, in Class 9, 35, 38.

The Complainant owns several domain names, including: <carrefour.eu>, registered on March 10, 2006; <carrefour.fr>, registered on June 23, 2005; <carrefour.net>, registered on June 18, 2001; and <carrefour.com>, registered on October 25, 1995.

The disputed domain name <carrefour-store.com> was registered on October 20, 2024, and resolves to a webpage displaying the following error messages:

“Oups, une erreur s'est produite.  
Que s'est-il passé ?  
This store is unavailable  
Que puis-je faire ?  
Return to the previous 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 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; and

vi) the Respondent's passive holding of the disputed domain name supports the finding of bad faith.

## **B. Respondent**

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

## **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.

Based on the available record, 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 a hyphen "-" and the term "store" are included, the CARREFOUR trademark remains clearly recognizable in the disputed domain name. The Panel finds that hyphen and the extra term do not prevent a finding of 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 un rebutted evidence shows that:

- the disputed domain name resolves to a webpage displaying error messages, 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;
- the nature of the disputed domain name, incorporating the Complainant's CARREFOUR trademark in its entirety with hyphen "-" and the term "store" (closely relating to the Complainant's core business), carries a risk of implied affiliation with the Complainant; 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 1956, which significantly predates the registration date of the disputed domain name on October 20, 2024. The CARREFOUR trademark has gained a high 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 "store" which closely relates to the Complainant's core business. Bearing in mind the reputation and distinctiveness of the CARREFOUR trademark, the Panel determines that the Respondent was aware of the Complainant's rights to 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.

Panels have 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 disputed domain name resolves to a webpage displaying error messages, without actual use. Having reviewed the available record and carefully considered the situations of this case including the extensive use of the trademark and the reputable fame that has been derived from the use, the composition of the disputed domain name, as well as the Respondent's failure of submitting any response or evidence of actual or contemplated good-faith use of the disputed domain name, the Panel finds that the Respondent's registration and holding of the disputed domain name constitutes bad faith under the Policy.

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

*/Linda Chang/*

**Linda Chang**

Sole Panelist

Date: January 21, 2025