

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Marc Beck

Case No. D2022-2785

1. The Parties

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

The Respondent is Marc Beck, Germany.

2. The Domain Name and Registrar

The disputed domain name <carrefourservice24.com> is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 27, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 18, 2022, 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 August 18, 2022.

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 August 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 4, 2022.

The Center appointed Alfred Meijboom as the sole panelist in this matter on October 17, 2022. 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 with a turnover of EUR 76 billion in 2018, which operates more than 12,000 stores in more than 30 countries worldwide, employing over 384,000 employees worldwide and 1.3 million daily unique visitors in its stores. In addition the Complainant offers travel, banking, insurance, and ticketing services.

The Complainant owns several trademark rights worldwide for the term CARREFOUR, including

- International Trademark Registration with no. 351147 for the word mark CARREFOUR, registered on October 2, 1968, for goods in Classes 1 to 34;
- International Trademark Registration with no. 353849 for the word mark CARREFOUR, registered on February 28, 1969, for services in Classes 35 to 42; and
- European Union Trade Mark with no. 5178371 for the word mark CARREFOUR, registered on August 30, 2007, for goods and services in Classes 9, 35 and 38.
(the “CARREFOUR Trademark”).

The disputed domain name was registered on June 3, 2022, and resolves to a website which is blocked by the Google web browser, which claims that it “has been reported as a deceptive website”. At the time of drafting this Decision, when the Panel used another web browser, the disputed domain name resolved to a website of “Kitty Escort Girls”¹.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that the CARREFOUR Trademark is famous and that the disputed domain name is confusingly similar to the CARREFOUR Trademark, and the addition of the term “service24” is generic and does nothing to diminish the likelihood of confusion arising from the disputed domain name.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Respondent does not own a trademark for the term “Carrefour”, and there is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. The Complainant has also not licensed or otherwise authorized the Respondent to reproduce the CARREFOUR Trademark in the disputed domain name in any manner or form, and the Complainant asserts that the Respondent has not used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services. As the access to the website under the disputed domain name is blocked by the Complainant’s web browser because it “has been reported as a deceptive website”, the Complainant alleges that the disputed domain name is inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making a legitimate non-commercial or fair use of the disputed domain name.

The Complainant further contends that the Respondent has registered and is using the disputed domain name in bad faith. According to the Complainant, the Complainant and the CARREFOUR Trademark were so widely well known, that the Respondent must have had the Complainant’s name and the CARREFOUR

¹ Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. See section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Trademark in mind when he registered the disputed domain name as the Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier CARREFOUR Trademark. The Complainant alleges that it is very likely that the Respondent chose the disputed domain name because of its identity with or similarity to the CARREFOUR Trademark in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the disputed domain name. Moreover, the Complainant claims that the Respondent's use of the disputed domain name is also in bad faith because the CARREFOUR Trademark predates the registration of the disputed domain name and the Respondent is preventing the Complainant from reflecting its Trademark in the corresponding domain name.

B. Respondent

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

6. Discussion and Findings

The Respondent did not file a Response. However, as set out in section 4.3 of the [WIPO Overview 3.0](#), the consensus view of UDRP panels is that a respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the CARREFOUR Trademark.

It is well established that the generic Top-Level Domain ("gTLD") ".com" may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy. The disputed domain name incorporates the CARREFOUR Trademark in its entirety, and the addition of the term "service24" does not prevent a finding of confusing similarity between the disputed domain name and the CARREFOUR Trademark.

Consequently, the first element of paragraph 4(a) of the Policy is met.

B. Rights or Legitimate Interests

The Complainant must make a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (see *e.g.*, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Complainant has contended that the Respondent is not commonly known in connection with the disputed domain name and was not licensed or otherwise authorized by the Complainant to use the CARREFOUR Trademark as part of a domain name. The Panel moreover notes the composition of the disputed domain name which naturally leads to an inference of connection with the Complainant. The Panel

finds that the Complainant has made out a *prima facie* case, calling for an answer from the Respondent. The Respondent has, however, not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel accordingly finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant demonstrates that the disputed domain name has been registered and is being used in bad faith.

The CARREFOUR Trademark was registered more than 50 years before the Respondent registered the disputed domain name and the Panel is satisfied that the CARREFOUR Trademark has been intensively used and is therefore well known, as confirmed by many previous panels (e.g. *Carrefour SA. v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Ben Luis*, WIPO Case No. [D2021-2633](#), includes many references to earlier panel decisions which found the CARREFOUR Trademark to be well known). Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (section 3.1.4 [WIPO Overview 3.0](#)). The Panel is therefore satisfied that the Respondent registered the disputed domain name in bad faith.

The disputed domain name resolves to a website that offers escort services or, depending which web browser is used, which is blocked as being reportedly disruptive. The direction of the disputed domain name to a website offering escort services is in the Panel's opinion clearly an attempt to attract, for commercial gain, Internet users to the website under the disputed domain name, by creating a likelihood of confusion with the CARREFOUR Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Moreover, this website which offers escort services also shows some explicit images which may be legal in many jurisdictions, but the use of someone else's trademark to attract Internet users to such website without the trademark owner's permission may well tarnish the reputation of the trademark and is in any event an impermissible attempt to take advantage of the trademark's reputation and goodwill (e.g., *Sodexo v. Evgeniy Erokhin*, WIPO Case No. [D2022-0740](#)). Likewise the blocking of the website under the disputed domain name may be disruptive and tarnish the reputation of the CARREFOUR Trademark. Such use of the disputed domain name is not a legitimate conduct under the Policy and the Panel finds that the disputed domain name is 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 <carrefourservice24.com> be transferred to the Complainant.

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: October 28, 2022