

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Wu Yu

Case No. D2022-1071

### **1. The Parties**

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

The Respondent is Wu Yu, China.

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

The disputed domain name <carrefpur.city> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2022. On the same date, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 March 31, 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 amended Complaints on April 5 and 7, 2022. In response to the Center’s request for clarification of certain information in the Complaint, the Complainant filed a further amended Complaint on April 14, 2022.

The Center verified that the Complaint together with the amended Complaints 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 April 20, 2022. In accordance with the Rules, paragraph 5, the due date for the Response was May 10, 2022. The Respondent did not submit any response. Accordingly, the Center sent the notification of the Respondent’s default on May 11, 2022.

The Center appointed Petra Pecar as the sole panelist in this matter on May 19, 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 French retail company which operates more than 12,000 stores in more than 30 countries worldwide, with over 384,000 employees worldwide and 1.3 million daily visitors in its stores. The Complainant additionally offers travel, banking, insurance, and ticketing services.

The Complainant is the owner of numerous trademark registrations in various jurisdictions worldwide, such as:

- International Trademark no. 351147 for CARREFOUR, registered on October 2, 1968;
- International Trademark no. 353849 for CARREFOUR, registered on February 28, 1969;
- European Union Trademark no. 008562051 for CARREFOUR CITY (word mark), registered on June 18, 2010, and
- European Union Trademark no. 008776197 for CARREFOUR CITY (figurative trademark), registered on April 19, 2012.

The Complainant is also the owner of numerous domain name registrations reflecting its trademarks, both within generic and country-code Top-Level Domains, such as <carrefour.be>, <carrefour.com.ar>, <carrefour.com.br>, <carrefour.com>, <carrefour.es>, <carrefour.fr>, <carrefour.it>, <carrefour.net>, <carrefour-banque.fr>, <carrefourcity.com>, <carrefourcity.net>, <carrefourcity.fr>, and <carrefourcity.paris>.

The Complainant is present on various social media, such as Facebook, LinkedIn France, Instagram France, LinkedIn Spain, Instagram Spain, LinkedIn Brazil, Instagram Brazil, the pages of which are being “followed” by more than 10 million users in total.

The disputed domain name was registered on October 20, 2021 and at the time of the decision, it resolves to a pay-per-click page with sponsored links that include the terms “Carrefour” and “Carrefour Pass”. This webpage also includes an offer for sale of the disputed domain name for an asking price of USD 1,999 at the bottom of the page.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant states that it holds several hundred trademark registrations for the terms CARREFOUR and CARREFOUR CITY, which are registered in various jurisdictions throughout the world. The earliest trademark registration for CARREFOUR dates from October 2, 1968 and it is an International Trademark Registration. The Complainant also highlights that its trademarks are well known throughout the world and indicates earlier decisions of UDRP panels in which the well-known status of the Complainant’s trademarks was determined.

The Complainant contends that the disputed domain name is confusingly similar to its earlier well-known trademarks CARREFOUR and CARREFOUR CITY. The difference between the disputed domain name and the earlier trademarks of the Complainant is a letter “p” in the disputed domain name instead of an “o” in the trademark, which does not prevent the finding of confusing similarity between them.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant highlights that it had found no CARREFOUR or CARREFOUR CITY

trademarks owned by the Respondent. Also, the Complainant states that the Respondent does not hold any trademarks in China, where the Respondent is based, and that the Respondent is not commonly known by the disputed domain name. Further, the Complainant contends that the Respondent has been imitating the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. According to the Complainant, it is inconceivable that the Respondent was not aware of the Complainant's earlier rights in the widely well-known trademarks CARREFOUR and CARREFOUR CITY. In addition, the disputed domain name resolves to a pay-per-click page with sponsored links. The Complainant submits that the use of pay-per-click advertisements through the disputed domain name trades off the goodwill of the Complainant and accordingly cannot constitute a *bona fide* use of the disputed domain name by the Respondent.

The Complainant also contends that it is highly likely that the Respondent had chosen the disputed domain name because of its similarity to the Complainant's trademarks and with the intention of attracting Internet users who were looking for the Complainant's goods or services, to the Respondent's website. The Complainant also highlights that its trademark registrations significantly predate the registration of the disputed domain name.

The Complainant submits that the disputed domain name appears to be offered for sale at a minimum price of USD 1,999 and that price far exceeds the out-of-pocket costs for a domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant. "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

### **A. Identical or Confusingly Similar**

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must, firstly, establish rights in a trademark or service mark and, secondly, establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1). The Panel finds that the Complainant has provided evidence of

ownership of registrations for the CARREFOUR and CARREFOUR CITY trademarks, demonstrating that it has rights in the CARREFOUR and CARREFOUR CITY trademarks, through registrations and use for retail services, which predate the registration date of the disputed domain name.

The Panel further finds that the disputed domain name incorporates the CARREFOUR and CARREFOUR CITY trademarks with a difference in only one letter, where the letter “o” is substituted with the letter “p” in the word “carrefpur”, while the second portion of the trademark CARREFOUR CITY is contained in its entirety within the “.city” generic Top-Level Domain (“gTLD”). While UDRP panels usually disregard the gTLD in evaluating the existence of confusing similarity (see also [WIPO Overview 3.0](#), section 1.11.1), in the case at hand, the gTLD in combination with the Second-Level Domain (“SLD”) forms a typo version of the trademark CARREFOUR CITY (see [WIPO Overview 3.0](#), section 1.11.3).

Registering domain names with a difference of one letter to a famous brand name often exemplifies typosquatting. Since the difference between the SLD of the disputed domain name and the Complainant’s CARREFOUR trademark is in the substitution of the letter “o” with the letter “p”, and regarding the fact that those letters are adjacent to each other in an ordinary QWERTY keyboard, the Panel considers this difference to be typosquatting. When the disputed domain name contains an obvious misspelling of the Complainant’s trademark, it is considered to be confusingly similar to the relevant trademark for the purposes of the first UDRP element, also in accordance with section 1.9 of [WIPO Overview 3.0](#).

Accordingly, the Panel determines that the disputed domain name is confusingly similar to the Complainant’s trademarks.

In accordance with the above, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its CARREFOUR and CARREFOUR CITY trademarks.

## **B. Rights or Legitimate Interests**

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1.).

Moreover, the Policy provides guidance to respondents on how to demonstrate rights or legitimate interests in the domain name. In particular, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name, including: (i) use of the domain name “in connection with a *bona fide* offering of goods or services”; or (ii) demonstration that the Respondent has been “commonly known by the domain name”; or (iii) “legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue”.

It appears that the Complainant has not authorized the Respondent to use the Complainant’s CARREFOUR and CARREFOUR CITY trademarks, especially in the light of the fact that the Respondent failed to provide any response to the Complaint that would contest such finding. The Respondent appears not to be commonly known by the disputed domain name or the names “carrefour” or “carrefour city”. There is no relevant evidence in the case file that would indicate that the Respondent has used the disputed domain name for a legitimate noncommercial or fair use, or that it has been used in connection with a *bona fide* offering of goods or services. The disputed domain name resolves to pay-per-click page with sponsored links, which trade off the goodwill of the Complainant’s trademark and accordingly cannot constitute a *bona fide* use of the disputed domain name by the Respondent, or a legitimate noncommercial or fair use.

The Panel therefore finds that the Complainant has made a *prima facie* demonstration of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by

the Respondent, and that the Complainant has accordingly established the second element of the Policy in accordance with paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

The third element of paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a Respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when, by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

It seems likely that at the time of the disputed domain name's registration, the Respondent was aware of the Complainant and its CARREFOUR and CARREFOUR CITY trademarks, and intentionally targeted those trademarks when registering the disputed domain name with a difference in one letter. The Respondent had the opportunity to check if the disputed domain name is violating any third-party rights before registering it, and if the Respondent had done so, he would have noticed that all results of an Internet or trademark search are related to the Complainant and its CARREFOUR trademark, which the Panel considers as a well-known trademark.

Concerning use in bad faith, the Panel notes that the disputed domain name leads to a parking page containing sponsored pay-per-click links. The Panel also notes that the sponsored links include the terms "Carrefour" and "Carrefour Pass" without the typographical mistakes which exist in the disputed domain name. This use certainly cannot be observed as use in good faith as the Respondent is capitalizing on the reputation of the Complainant's trademarks in order to generate undue profit from each link appearing on the parking page.

The disputed domain name is also offered for sale for a minimum price of USD 1,999, which confirms the fact that the Respondent is trying to make commercial gain since the price presumably exceeds the cost of the domain name registration. In accordance with paragraph 4(b)(i) of the Policy, circumstances indicating that the Respondent has registered the disputed domain name for the purpose of selling, renting or otherwise transferring the domain name registration for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name, shall be evidence of the registration and use of a domain name in bad faith. Considering the fact that the disputed domain name was offered for sale, the Panel finds it as clear evidence of the registration and use of the disputed domain name in bad faith by the Respondent.

For these reasons, this Panel finds that the disputed domain name is registered and is being used in bad faith in accordance with paragraph 4(a)(iii) 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 <carrefpur.city> be transferred to the Complainant.

*/Petra Pecar/*

**Petra Pecar**

Sole Panelist

Date: June 2, 2022