

ADMINISTRATIVE PANEL DECISION

Carrefour SA. v. Josh Anderson

Case No. D2024-3593

1. The Parties

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

The Respondent is Josh Anderson, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <carrefour-on-boardonline.shop> (the “Disputed Domain Name”) is registered with Web Commerce Communications Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 6, 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 (Wilayah Persekutuan) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 September 9, 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 September 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on October 8, 2024. 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 operates more than 12,000 stores in over 30 countries around the world and is listed on the index of the Paris Stock Exchange. Apart from retail stores, the Complainant also offers travel, banking, insurance, and ticketing services.

The Complainant is the owner of a number of trademark registrations for CARREFOUR in various countries and classes, including, inter alia, International Trademark Registration No. 351147 for CARREFOUR registered on October 2, 1968, in classes 1 to 34, International Trademark Registration No. 353849 for CARREFOUR registered on February 28, 1969, in classes 35 to 42, European Union Trademark Registration No. 005178371 for CARREFOUR registered on August 30, 2007, in classes 9, 35 and 38, and the United States Trademark Registration No. 6763415 for CARREFOUR registered on June 21, 2022, in Class 35 (the “Complainant’s Trademark”).

The Complainant’s Trademark is also fully incorporated in the Complainant’s domain names, including, inter alia, <carrefour.com>, <carrefour.fr>, <carrefourbanca.it>, <pass-carrefour.com>, and <carrefourmarket.fr> (the “Complainant’s Domain Names”).

The Disputed Domain Name was registered on August 11, 2024, many years after the Complainant first registered the Complainant’s Trademark. At the time of the filing of the Complaint and the rendering of this Decision, the Disputed Domain Name resolves to an active website allegedly offering various products for sale, including CARREFOUR branded products (the “Respondent’s 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:

- (a) The Disputed Domain Name is confusingly similar to the Complainant’s Trademark. The Complainant’s Trademark is reproduced in its entirety in the Disputed Domain Name. The only differences between the Disputed Domain Name and the Complainant’s Trademark are the addition of a generic term “-on-boardonline”, and the generic Top-Level Domain (“gTLD”) “.shop”, which should not prevent a finding of confusing similarity and may be disregarded.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent does not own any CARREFOUR trademark. The Respondent has not obtained any license or authorisation from the Complainant to use the Complainant’s Trademark as part of a domain name or otherwise. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or the Complainant’s Trademark. Moreover, the Respondent cannot claim prior rights or legitimate interests in the Disputed Domain Name as the Complainant’s registration and use of the Complainant’s Trademark significantly predate that of the Respondent’s registration of the Disputed Domain Name. Furthermore, there is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Disputed Domain Name in connection with a bona fide offering of goods and services. The Disputed Domain Name appears to be

registered by the Respondent to create a likelihood of confusion with the Complainant's Trademark to mislead Internet users that the Disputed Domain Name is associated with or authorised by the Complainant. Such use of the Disputed Domain Name does not constitute a bona fide offering of goods or services, or legitimate non-commercial or fair use of the Disputed Domain Name.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. Given the goodwill and reputation that the Complainant has acquired in the Complainant's Trademark, the Respondent must have been fully aware of the existence of the Complainant's rights in the Complainant's Trademark when the Respondent registered and used the Disputed Domain Name. As the Disputed Domain Name resolves to an active website that offers to sell various products including CARREFOUR branded products, the Disputed Domain Name is used with the intention to cause confusion to Internet users as to the source of the Respondent's Website. The Respondent can therefore capitalise on and disrupt the Complainant's business by virtue of the association between the Disputed Domain Name and the Complainant's Trademark. Therefore, the Respondent has registered and is using the Disputed Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

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;
- (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

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.

The Complainant has shown rights in respect of the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's Trademark is reproduced within the Disputed Domain Name. It is well established that the gTLD ".shop" in this case, may be disregarded for the purposes of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case "-on-boardonline", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 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.

In the present case, the Respondent did not submit a Response. The fact that the Respondent did not submit a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent’s failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become commonly known by the Disputed Domain Name. There is no evidence to suggest that the Respondent’s use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services or constitutes legitimate noncommercial or fair use.

The composition of the Disputed Domain Name, consisting of the Complainant’s Trademark together with a term “-on-boardonline”, also leads to a risk of implied affiliation as the Disputed Domain Name may suggest sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1. The Respondent would likely not have adopted the Complainant’s Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant, especially when the Disputed Domain Name reproduces the Complainant’s Trademark in its entirety and the Respondent offers to sell CARREFOUR branded products on the Respondent’s Website. The Panel notes the Respondent’s Website also offers other products for sale under other brands. Such use cannot constitute fair use under the *Oki Data* test (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) and [WIPO Overview 3.0](#), section 2.8).

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 it is difficult to conceive of any plausible use of the Disputed Domain Name by the unaffiliated Respondent that would amount to good faith use, given that the Disputed Domain Name has incorporated the Complainant's Trademark in its entirety, and it resolves to the Respondent's Website which offers to sell the Complainant's branded products. The Respondent registered and has been using the Disputed Domain Name to mislead and divert Internet users to the Respondent's Website for commercial gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. See paragraph 4(b)(vi) of the Policy and section 3.1 of the [WPO Overview 3.0](#). Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

Panels have previously held that a finding of bad faith can be established where a complainant's trademark is shown to be well-known or in wide use at the time of registration of the disputed domain name (see *LEGO Juris A/S v. store24hour*, WIPO Case No. [D2013-0091](#)). The Respondent must have been fully aware of the Complainant and the Complainant's Trademark when it registered the Disputed Domain Name, given the well-known nature of the Complainant's brand, evidenced by the various trademark registrations for the Complainant's Trademark across the globe that has been put into use well before the Respondent registered the Disputed Domain Name. Moreover, the Complainant's Trademark is featured in the Respondent's Website which offers for sale the Complainant's products as well as other third party products.

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-on-boardonline.shop> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: October 22, 2024