

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. ADAM DIONISIO

Case No. D2022-0421

### **1. The Parties**

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

The Respondent is ADAM DIONISIO, Italy.

### **2. The Domain Names and Registrars**

The disputed domain names <mycarrefourbanque.com> and <mycarrefourbanque.org> are registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2022. On February 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 9, 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 February 9, 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 February 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 3, 2022.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on March 8, 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 company active in the retail sector, which also offers travel, banking, insurance or ticketing services. The Complainant claims to operate more than 12,000 stores in more than 30 countries worldwide, which welcome more than 1.3 million daily unique visitors. The Complainant submits that it has built up a long-lasting worldwide reputation in connection with its trademarks CARREFOUR.

The Complainant owns several trademarks which include the term “carrefour”, including:

- International verbal trademark CARREFOUR, registered under number 351147 on October 2, 1968, in classes 1 to 34;
- International verbal trademark CARREFOUR, registered under number 353849 on February 28, 1969, in classes 35 to 42;
- French verbal trademark BANQUE CARREFOUR, registered under number 3585968 on July 2, 2008, in class 36; and
- French verbal trademark CARREFOUR BANQUE & ASSURANCE, registered under number 3585950 on July 2, 2008, in class 36.

The Complainant operates the domain name <carrefour-banque.fr>, registered on October 7, 2009.

Both disputed domain names <mycarrefourbanque.com> and <mycarrefourbanque.org> were registered on September 18, 2021. At the time of filing the Complaint, the disputed domain name <mycarrefourbanque.com> redirected to another domain name itself pointing to an error page, while the disputed domain name <mycarrefourbanque.org> resolved to a parking page of pay-per-click commercial links.

#### **5. Parties' Contentions**

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

The Complainant contends that the disputed domain names are highly similar to its earlier well-known trademarks CARREFOUR, and that neither the addition of a term to a well-known trademark, the use of lower-case letter format, nor the addition of the generic Top-Level Domains (“gTLDs”), “.com” and “.org”, diminish the likelihood of confusion arising from the disputed domain names. Additionally, the Complainant contends that the incorporation of a well-known trademark in its entirety may be sufficient to establish that the disputed domain names are identical or confusingly similar to the Complainant’s trademark.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain names, as the Respondent has neither acquired trademark rights in the terms “carrefour” or “carrefour banque” nor is commonly known by the disputed domain names. Further, the Respondent has not acquired any license or authorization from the Complainant to use the trademark CARREFOUR and has not made any preparations to use the disputed domain names in relation to a *bona fide* offering of goods or services.

The Complainant contends that the Respondent has registered and is using the disputed domain names in bad faith. According to the Complainant, it is inconceivable that the Respondent wasn’t aware of the Complainant’s earlier rights on the widely well-known trademarks CARREFOUR, BANQUE CARREFOUR, and CARREFOUR BANQUE & ASSURANCE. Additionally, the Complainant contends that the Respondent’s failure to conduct a trademark search prior to registration is a contributory factor to its bad faith. Finally, the Complainant argues that multiple circumstances of the case are indicative of bad faith,

including the Complainant having a well-known trademark, the lack of response to the Complaint having been filed, and the Respondent's concealment of its identity

## **B. Respondent**

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

## **6. Discussion and Findings**

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

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must demonstrate that the disputed domain names are (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

On the basis of the evidence presented, it is established that the Complainant owns several CARREFOUR, BANQUE CARREFOUR, and CARREFOUR BANQUE & ASSURANCE verbal trademarks.

With the exception of their gTLDs, the disputed domain names are nearly identical. The disputed domain names reproduce the Complainant's BANQUE CARREFOUR trademark, albeit with an inversion of the elements of the trademark and the addition of the word "my". Additionally, the disputed domain names entirely incorporate the Complainant's CARREFOUR trademarks, which benefit from a long-standing reputation (*Carrefour SA. v. Contact Privacy Inc. Customer 12411110056, 12411024408, 12411022085, 12411041565, 12411058529 / Solere and Alzrt*, WIPO case No. [D2021-3716](#); *Carrefour v. Kara Turner*, WIPO Case No. [D2018-0349](#); *Carrefour SA v. Whois Privacy Protection Foundation / Remyeld Lantak, Megatour*, WIPO Case No. [D2022-0010](#)).

Previous UDRP Panels have consistently held that, in circumstances where the disputed domain name incorporates the entirety of a trademark or its dominant feature is recognizable, the disputed domain name will be considered confusingly similar to the trademark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7; *Fondation Le Corbusier v. Monsieur Bernard Weber, Madame Heidi Weber*, WIPO Case No. [D2003-0251](#); *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#)).

This finding of confusing similarity is not precluded by the use of lower-case letters, by the inversion of the elements of the trademark, nor by the addition of other terms ([WIPO Overview 3.0](#), section 1.8; *Intesa Sanpaolo S.p.A. v. Rampe Purda*, WIPO Case No. [D2010-1116](#); *Société des Bains de Mer et du Cercle des Etrangers à Monaco v. Mark Bolet*, WIPO Case No. [D2006-1245](#)).

Additionally, it is well-established that the applicable gTLDs, here ".com" and ".org" respectively, are typically not to be taken into account for the purpose of assessing confusing similarity under the Policy, as they are merely standard registration requirements ([WIPO Overview 3.0](#), section 1.11).

Accordingly, the Panel finds that each of the disputed domain names is confusingly similar to the Complainant's CARREFOUR and BANQUE CARREFOUR trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

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

Pursuant to paragraph 4(c) of the Policy, evidence of the Respondent's rights or legitimate interests in the disputed domain names for the purposes of paragraph 4(a)(ii) may be established, in particular, by any of the following circumstances:

(i) prior to becoming aware of the dispute, the Respondent has used the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services, or made serious preparations to do so;

(ii) the Respondent is known by the disputed domain names in question, even without having acquired trademark or service mark rights; or

(iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain names without intent to divert consumers for profit by creating confusion or to tarnish the trademark or service mark at issue.

Where the Complainant establishes *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production on this element is on the Respondent and it is up to the Respondent to provide relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent does not provide such relevant evidence, the Complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

The Complainant provides *prima facie* evidence that the Respondent has not acquired trademark rights in the terms “carrefour” or “carrefour banque” and that the Respondent is not commonly known by these terms either. Additionally, the Complainant contends that the Respondent uses its CARREFOUR and BANQUE CARREFOUR trademarks without any license or authorization.

Further, the Complainant provides *prima facie* evidence that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain names in relation to a *bona fide* offering of goods or services. On the contrary, the disputed domain name <mycarrefourbanque.com> redirected to another domain name itself pointing to an error page, while the disputed domain name <mycarrefourbanque.org> resolved to a parking page of pay-per-click commercial links, at least some of which compete with the Complainant. The latter especially cannot constitute a *bona fide* offering of goods and services as it capitalizes on the reputation and goodwill of the Complainant’s trademark ([WIPO Overview 3.0](#), section 2.9). Moreover, the construction of the disputed domain names, inverting and incorporating in their entirety the BANQUE CARREFOUR and CARREFOUR trademarks, carries a risk of implied affiliation that cannot constitute fair use ([WIPO Overview 3.0](#), section 2.5.1).

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent has not exercised its right to defend itself and has not asserted the existence of a legitimate use of the disputed domain names, so the Panel must conclude that the second condition of paragraph (4)(a) of the Policy is satisfied.

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

Pursuant to paragraph 4(a)(iii) of the UDRP, the Complainant must demonstrate that the disputed domain names have been registered and are being used in bad faith.

Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). In this case, given the long-lasting worldwide reputation which the CARREFOUR trademarks enjoy, the Panel finds that the Respondent knew or should have known that it was registering the disputed domain names in violation of the Complainant’s trademarks. This sufficiently establishes the registration in bad faith of the disputed domain names.

Moreover, regarding <mycarrefourbanque.org>, the redirection to a parking page with pay-per-click commercial links is further evidence of bad faith, as the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark ([WIPO Overview 3.0](#), section 3.1.4). Additionally, the Panel finds that several other circumstances are indicative of bad faith, including (i) a clear absence of rights or legitimate interests coupled with no credible

explanation for the Respondent's choice of the disputed domain name, (ii) the use of a privacy shield to hide the registrant's identity, and (iii) the failure to submit a response ([WIPO Overview 3.0](#), section 3.2 and 3.6).

Further, regarding <mycarrefourbanque.com>, the redirection to a third-party page displaying an error message establishes the use in bad faith of said disputed domain name, as it constitutes evidence of passive holding of the disputed domain name by the Respondent. Additional circumstances in support of this finding include (i) the degree of distinctiveness or reputation of the Complainant's mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the disputed domain name may be put ([WIPO Overview 3.0](#), section 3.3). Moreover, the Respondent's retention of control over the redirection creates an implied and ongoing threat to the Complainant ([WIPO Overview 3.0](#), section 3.1.4).

Accordingly, the Panel finds that the Respondent has registered and used the disputed domain names in bad faith and hence the third condition of paragraph 4(a) of the Policy has been fulfilled.

## 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 names, <mycarrefourbanque.com> and <mycarrefourbanque.org>, be transferred to the Complainant.

*/Benoit Van Asbroeck/*  
**Benoit Van Asbroeck**  
Sole Panelist  
Date: March 22, 2022