

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Conceicao maria, CONCEICAO MARIA CLARET Comercio
armarinho

Case No. D2022-0574

1. The Parties

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

The Respondent is Conceicao maria, CONCEICAO MARIA CLARET Comercio armarinho, Brazil.

2. The Domain Name and Registrar

The disputed domain name <carfoursolutions.online> (the “Disputed Domain Name”) is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2022. On February 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 21, 2022, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 March 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 4, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on April 7, 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

In 1968, the Complainant pioneered the concept of hypermarkets and is currently listed on the index of the Euronext Paris Stock Exchange. The Complainant operates more than 12,000 stores in more than 30 countries worldwide, has more than 384,000 employees worldwide, and 1.3 million daily unique visitors on its website. Thus, the Complainant is a leader in retail services, also offering travel, banking, insurance and ticketing services. The Complainant enjoys renown and a reputation of high esteem throughout the global market. The Complainant's fame is also evidenced on the Internet on multiple social media platforms.

The Complainant owns numerous registered trademarks, including, but not limited to:

CARREFOUR, International Trademark Registration No. 351147, registered on October 2, 1968, in international classes 1-34; CARREFOUR, International Trademark Registration No. 353849, registered on February 28, 1969, in international classes 35-42; and CARREFOUR, Brazilian Trademark Registration No. 6314716, registered on May 10, 1976, in international class 35 (where the Respondent purportedly resides) (hereinafter collectively referred to as the "CARREFOUR Mark").

The Complainant also owns a number of domain names, including <carrefour.com>, <grupocarrefourbrasil.com.br>, and <carrefour.com.br>. The <carrefour.com> domain name resolves to the Complainant's official website at "www.carrefour.com".

The Disputed Domain Name was registered by the Respondent on November 29, 2021. The Respondent is a Brazilian company specializing in haberdashery. The Disputed Domain Name resolves to an inactive landing page with no substantive content that currently states "This site can't be reached. carfoursolutions.online's server IP address could not be found."

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's CARREFOUR Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith; and
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (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 in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the CARREFOUR Mark.

It is uncontroverted that the Complainant has established rights in the CARREFOUR Mark based on its several years of use as well as its registered trademarks for the CARREFOUR Mark in various jurisdictions worldwide. The consensus view is that “registration of a mark is *prima facie* evidence of validity, which creates a rebuttable presumption that the mark is inherently distinctive”. See *CWI, Inc. v. Domain Administrator c/o Dynadot*, WIPO Case No. [D2015-1734](#). The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the CARREFOUR Mark. Moreover, the registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1. Thus, the Panel finds that the Complainant has rights in the CARREFOUR Mark.

The Disputed Domain Name consists of a misspelling of the CARREFOUR Mark followed by the descriptive term “solutions”, and then followed by the generic Top-Level Domain (“gTLD”) “.online”. It is well established that a domain name that wholly incorporates a trademark – even a misspelling thereof – may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of [WIPO Overview 3.0](#), “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”. For example, numerous UDRP decisions have reiterated that the addition of a dictionary or descriptive term to a trademark does not prevent a finding of confusing similarity. See *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. [D2011-0795](#); and *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

The Disputed Domain Name misspells the CARREFOUR Mark by omitting the letters “re” from the term “carfour”, although the term “carfour” in the Disputed Domain Name is pronounced the same way as the CARREFOUR Mark. This misspelling, where the CARREFOUR Mark is still recognizable, does not prevent a finding of confusing similarity between the CARREFOUR Mark and the Disputed Domain Name. Such modification to a trademark is commonly referred to as “typosquatting”, as such conduct seeks to wrongfully take advantage of errors by users in typing domain names into their web browser’s location bar. See [WIPO Overview 3.0](#), section 1.9 (“A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.”); see also *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. [D2008-1302](#).

Further, the addition of a gTLD such as “.online” in a domain name is technically required. Thus, it is well established that, as here, such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

There is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the Disputed Domain Name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant's CARREFOUR Mark. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name nor has the Respondent made any demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

Moreover, the Complainant does not have any business relationship with the Respondent and based on the passive use made of the Disputed Domain Name to resolve to a landing page with no substantive content, the Panel finds that the Respondent is not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name.

The Panel finds the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy.

First, the Disputed Domain Name that contains a misspelling of the CARREFOUR Mark in an attempt to deceive Internet users is evidence of bad faith registration and use. See *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#). The Panel concludes that the Respondent knew about the Complainant's rights in the CARREFOUR Mark when it registered the Disputed Domain Name, since it misspelled the Disputed Domain Name by omitting the letters "re" to misdirect users from the Complainant's website probably in order to capitalize on typing mistakes made by users or to take unfair advantage of the risk of confusion created by the Disputed Domain Name. See *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) ("It is well-settled that the practice of typosquatting, of itself, is evidence of the bad faith registration of a domain name.").

Second, based on the circumstances here, the Panel concludes that Respondent's registration and use of the Disputed Domain Name had been done for the specific purpose of trading on the name and reputation of the Complainant and its CARREFOUR Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. D2000-0847 ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain"). The Panel also finds that the Respondent's use of the Disputed Domain Name to resolve to an inactive landing page demonstrates bad faith use of the Disputed Domain Name by the Respondent. See *Advance Magazine Publishers Inc. and Les Publications Condé Nast S.A. v. ChinaVogue.com*, WIPO Case No. [D2005-0615](#).

Third, the Panel finds that the Respondent knew that the Complainant had rights in the CARREFOUR Mark when registering the Disputed Domain Name, since the Respondent registered the Disputed Domain Name decades after the Complainant's use of the CARREFOUR Mark. Moreover, by using a misspelling of the Disputed Domain Name, the Panel finds that the Respondent had knowledge of the CARREFOUR Mark

when registering the Disputed Domain Name and it therefore strains credulity to believe that the Respondent had not known of the Complainant or its CARREFOUR Mark when registering the Disputed Domain Name. See *Myer Stores Limited v. Mr. David John Singh*, WIPO Case No. [D2001-0763](#) (respondent's knowledge of the registration and use of a trademark prior to registering the domain name constitutes bad faith). In sum, the Panel finds it likely that the Respondent had the Complainant in mind when registering the Disputed Domain Name and that the Respondent registered and used the Disputed Domain Name to take unfair advantage of the Complainant's CARREFOUR Mark.

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <carfoursolutions.online> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: April 21, 2022