

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Sophie Schemann, Personal Use Case No. D2022-0966

1. The Parties

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

The Respondent is Sophie Schemann, Personal use, Spain.

2. The Domain Name and Registrar

The disputed domain names <carefour.app> and <carefour.me> (‘the Domain Names’) are registered with Tucows Inc. and eNom, Inc. dba Dynames.com, Inc. (the ‘Registrars’).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the ‘Center’) on March 21, 2022. On March 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On March 21, 2022, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 5, 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 April 5, 2022, date of receipt by Center.

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 April 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 11, 2022.

The Center appointed Dawn Osborne as the sole panelist in this matter on May 16, 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 multinational retail company.

The Complainant is the owner of, *inter alia*, the following marks:

International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international Classes 1 to 34; and

International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international Classes 35 to 42.

The Domain Names registered on October 4, 2021 are not being used except for holding or warning pages that the site has been blocked or may not be secure, although it is not clear for what reason.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarised as follows:

The Complainant is the owner of the mark CARREFOUR registered, *inter alia*, as detailed above.

The Domain Names registered in 2021 are confusingly similar for the purposes of the Policy to the Complainant's CARREFOUR mark, omitting a letter "r" and adding the generic Top-Level Domain ("gTLD") ".app" or ".me" none of which prevents confusing similarity between the Domain Name and the Complainant's mark.

The Respondent is not commonly known by the Domain Names and has not been authorised by the Complainant to use its mark. The Domain Names lead to holding or warning pages but are not being otherwise used, so there has been no *bona fide* offering of goods and services or legitimate noncommercial fair use. The Respondent has no rights or legitimate interests in the Domain Names.

Such a pattern of activity relating to domain names containing a third party mark with prior rights is causing confusion and is evidence of registration and use in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Names in this Complaint combine a misspelling of the Complainant's CARREFOUR mark (registered, *inter alia* as detailed above) omitting one letter "r" with a gTLD ".app" or ".me".

Misspelling a mark in a domain name such as the omission of one letter does not prevent the domain name containing that misspelling being confusingly similar to a complainant's mark. Omitting a letter "r" does not prevent either of the Domain Names being confusingly similar to the Complainant's mark.

The addition of a gTLD such as ".app" or ".me" which is a necessary functional part of a domain name does not prevent either of the Domain Names from being confusingly similar to the Complainant's CARREFOUR

mark for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Names are confusingly similar to a mark in which the Complainant has rights for the purpose of the Policy.

B. Rights or Legitimate Interests

The Complainant has not authorised the use of a misspelling of its CARREFOUR mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Names.

According to the evidence submitted, there has been no real use of the Domain Names. They currently lead to holding or warning pages. Inactive use does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial fair use.

The Panel finds that the Complainant has established 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.

The Respondent has not answered this Complaint or explained why it should be allowed to register domain names containing the Complainant's mark, which has a reputation for retail services.

As such, the Panel finds that the Respondent does not have rights or a legitimate interest in the Domain Names, and that the Complainant has satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from or exploit the trademark of another.

This is a case of passive holding of a domain name containing a mark with a reputation. See *Telstra Corporation Limited v Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). Considering (i) the distinctiveness and reputation of the Complainant's CARREFOUR 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, and (iv) the implausibility of any good faith use to which the Domain Name may be put, the Panel finds that the Domain Names have been registered and used in bad faith.

Further the Domain Names appear to be a form of typosquatting registrations omitting only one letter "r" from the Complainant's CARREFOUR trademark. Typosquatting of a well-known mark has commonly been held by Panels to create a presumption of registration and use in bad faith under the Policy.

As such, the Panel holds that the Complainant has made out its case that the Domain Names were registered and used in bad faith and has satisfied the third limb 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 Domain Names, <carefour.app> and <carefour.me> be transferred to the Complainant.

Dawn Osborne

Sole Panelist

Date: May 18, 2022