

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Super Privacy Service LTD c/o Dynadot / Mark Cendic
Case No. D2022-1276

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / Mark Cendic, Croatia.

2. The Domain Name and Registrar

The disputed domain name <carrefour.app> (“the Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 12, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 12, 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 19, 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 April 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 10, 2022. On April 20, 2022, the Center received an email communication from the Respondent indicating his intention of exploring settlement options with the Complainant. The Center sent an email of possible settlement to the Parties on April 20, 2022. The Complainant sent an email to the Center on May 11, 2022 confirming that the settlement is impossible. Accordingly, the Center notified commencement of panel appointment process on May 11, 2022.

The Center appointed Dawn Osborne as the sole panelist in this matter on May 13, 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 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 Name was registered in 2021, and it resolves to a website on which it has been offered for sale on the Internet generally.

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 Name registered in 2021 is identical for the purposes of the Policy to the Complainant's CARREFOUR mark adding only the generic Top Level Domain ("gTLD") ".app" which does not distinguish the Domain Name from the Complainant's mark.

The Respondent is not commonly known by the Domain Name and has not been authorised by the Complainant to use its mark. The Domain Name has not been used so there has been no *bona fide* offering of goods and services or legitimate noncommercial fair use. The Domain Name has been offered for sale generally on the Internet. The Respondent has no rights or legitimate interests in the Domain Name.

Registration of a domain name containing a well-known third party mark with prior rights and offering such a domain name for sale generally is evidence of registration and use in bad faith.

B. Respondent

The Respondent did not submit a Response.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name in this Complaint combines the Complainant's CARREFOUR mark (registered, *inter alia* as detailed above) and the gTLD ".app".

The addition of the gTLD (in this case ".app") which is a necessary functional part of a domain name does not prevent the Domain Name from being identical to the Complainant's CARREFOUR mark for the

purposes of the Policy.

Accordingly, the Panel finds that the Domain Name is identical 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 its CARREFOUR mark. There is no evidence or reason to suggest that the Respondent is, in fact, commonly known by the Domain Name. There has been no use of the Domain Name except to resolve to a website on which the Domain Name is listed for sale. Such 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 a domain name 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 Name 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.

The mere registration of a domain name that is identical to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

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 Name has been registered and used in bad faith.

Further the Domain Name has been offered for sale generally on the Internet. Offering a domain name containing the well-known trademark of a third party for sale (presumably for profit) generally on the Internet without any explanation has commonly been held by panels to be 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 Name was 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 Name, <carrefour.app>, be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: May 18, 2022