

ADMINISTRATIVE PANEL DECISION

**Carrefour SA v. Registration Private, Domains By Proxy, LLC / 3232 33232
Case No. D2022-1952**

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America / 3232 33232, China.

2. The Domain Name and Registrar

The disputed domain name <carrefourstoreing.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2022. On May 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 2, 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 June 6, 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 June 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2022.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on July 15, 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 worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968. The Complainant operates more than 12,000 stores in more than 30 countries worldwide. The Complainant additionally offers travel, banking, insurance and ticketing services.

The Complainant owns several hundred trademark rights worldwide in the CARREFOUR term, such as:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, designating goods in 1-34 classes;
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, designating services in 35-42 classes;
- European Union Trade Mark CARREFOUR No. 5178371, registered on August 30, 2007, and designating services in classes 9, 35, and 38.

In addition, the Complainant is also the owner of numerous domain names identical to, or comprising, its trademarks, both within generic and country-code Top-Level domains, such as <carrefour.com> registered since 1995.

The disputed domain name is <carrefourstoreing.com> registered on March 29, 2022.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to its earlier well-known trademarks CARREFOUR.

The Complainant contends that the Respondent should be considered as having no rights or legitimate interests in respect of the disputed domain name.

The Complainant further asserts that the Respondent has acquired no trademark in the term CARREFOUR or CARREFOURSTOREING which could have granted the Respondent with rights in the disputed domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization.

The Complainant submits that it has not authorized the use of its earlier trademarks or terms similar thereto in the disputed domain name in any manner or form. The Respondent reproduces the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant, which is a strong evidence of the lack of rights or legitimate interests.

The Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services. In fact, the disputed domain name resolves to an error page.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. The Respondent's choice of disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks. By simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademark in the disputed domain name. The disputed domain name resolves to an error page. The Complainant furthermore submits that the Respondent has been using a privacy protection service in an attempt to escape the present proceeding.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraphs 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable, and on the basis of the Complaint where no Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks 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.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy, it should be established that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

The Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights.

With the Complainant's rights in the CARREFOUR trademark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the generic Top-Level-Domain ("gTLD") in which the disputed domain name is registered) are identical or confusingly similar to the Complainant's mark.

The first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". See [WIPO Overview 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant

trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark CARREFOUR, since it reproduces it in its entirety. The Panel also notes that the addition of the term "storeing" to a trademark in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. As discussed in section 1.8 of the [WIPO Overview 3.0](#), in cases where the relevant trademark is recognizable within the disputed domain name, the addition of terms would not prevent a finding of confusing similarity under the first element.

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of "proving a negative", in particular as the evidence needed to show the Respondent's rights or legitimate interests is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy.

The Panel notes that there is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization.

Moreover, the Respondent reproduces the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant, which is a strong evidence of the lack of rights or legitimate interests. The Complainant has not authorized the use of its earlier trademarks or terms similar thereto in the disputed domain name in any manner or form.

The disputed domain name resolves to an error page. There are also no evidence that the Respondent used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services.

In the absence of a Response, the Respondent has failed to demonstrate any of the non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name.

Therefore, the Panel concludes that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's trademark registrations significantly predate the registration date of the disputed domain name. As it is proved by the case file, the Complainant enjoys a long-lasting worldwide reputation, which has now been established by previous panels for years. Therefore, under this Panels' view, the Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (*Carrefour SA v.*

blackwhite, dolly Tiwari, WIPO Case No. [D2021-0274](#)).

Furthermore, the current non-use of the disputed domain name may not be considered a good faith use. By simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademark in the disputed domain name. In addition, the disputed domain name resolves to an error page. The non-use of a disputed domain name (including a blank or error page) does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#) and *Carrefour v. Andre Machado*, WIPO Case No. [DIO2020-0004](#).

Furthermore, the Panel also notes that the Respondent has been using a privacy protection service in an attempt to escape the present proceeding. Such efforts to conceal its identity through the use of a Whois privacy service can be construed as further evidence that the disputed domain name was registered in bad faith. See [WIPO Overview 3.0](#), section 3.6.

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name was registered and used in bad faith by the Respondent.

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 <carrefourstoreing.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: July 29, 2022