

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Jordan Liengme  
Case No. D2022-2092

### **1. The Parties**

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

The Respondent is Jordan Liengme, France.

### **2. The Domain Name and Registrar**

The disputed domain name <carrefour-compte.app> is registered with RU-CENTER-MSK (Regional Network Information Center, JSC dba RU-CENTER) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On June 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 14, 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 16, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

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 July 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2022.

The Center appointed Alexandre Nappey as the sole panelist in this matter on August 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 the French company Carrefour SA, a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968.

With a turnaround of EUR 78 billion in 2020, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40).

The Complainant operates more than 12.000 stores in more than 30 countries worldwide.

With more than 321.000 employees worldwide and 1.3 million daily unique visitors in its stores, the Complainant is without a doubt a major and well-known worldwide leader in retail.

Besides retail, the Complainant additionally offers travel, banking, insurance or ticketing services. The Complainant owns numerous CARREFOUR trademark registrations around the world, among which:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 01 to 34;
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42;

The disputed domain name <carrefour-compte.app> was registered on December 31, 2021.

At the time of filing the Complaint and the drafting of the decision, the disputed domain name is not active.

#### 5. Parties' Contentions

##### A. Complainant

First, the Complainant submits that the disputed domain name is highly similar to its earlier well-known trademark CARREFOUR to the point of creating confusion.

Indeed, the disputed domain name includes the earlier trademark CARREFOUR in its entirety with the addition of the French word "compte", meaning "account" in English, which is likely to lead the Internet users to believe that the disputed domain name is associated with mobile applications published or endorsed by the Complainant.

Secondly, the Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

- the Complainant performed a trademark search on the WIPO Global brand database and found no CARREFOUR COMPTE or CARREFOUR trademarks likely to be held by the Respondent. The Complainant has found no evidence whatsoever that the Respondent is known by the disputed domain name;
- the Respondent reproduces the Complainant's earlier registered trademarks CARREFOUR in the disputed domain name without any license or authorization from the Complainant, which is strong evidence of a lack of legitimate interest. Therefore, the Complainant submits that it has not authorized the use of the term "carrefour" or terms similar thereto in the disputed domain name in any manner or form;
- the Complainant puts forth that 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. On the contrary, the disputed domain name resolves towards an error page;

- since the adoption and extensive use by the Complainant of the trademarks CARREFOUR predate the first entry of the disputed domain name, the burden is on the Respondent to establish the Respondent's rights or legitimate interests the Respondent may have or have had in the disputed domain name.

Thirdly, the Complainant submit that the Respondent has registered and is using the disputed domain name in bad faith:

- the Complainant submits that the Complainant and its trademarks are so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights on the term CARREFOUR. The Respondent had obviously the Complainant's name and trademarks in mind when registering the disputed domain name. The Respondent's choice of domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks.
- the Complainant's CARREFOUR trademark registrations significantly predate the registration date of the disputed domain name.
- the association of "carrefour" and "compte" (French word for "account") strongly suggests that the disputed domain name was registered precisely to refer to the various accounts Internet users may create with the Complainant's different services, be it online retail, banking, Insurances, specific apps etc. The disputed domain name is similar to domain names regularly used by cybercriminals in various fraudulent activities, notably phishing.
- the disputed domain name is not being actively used on the web according to the Complainant's verifications: such absence of use of the disputed domain name may not be considered a good faith use.

## **B. Respondent**

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

## **6. Discussion and Findings**

Notwithstanding the lack of a formal response from the Respondent, it remains up to the Complainant to make out its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

(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.

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Having consideration to the Parties' contentions, the Policy, Rules, Supplemental Rules, and applicable substantive law, the Panel's findings on each of the above-mentioned elements are the following:

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

The Panel is satisfied that the Complainant owns exclusive trademark rights in CARREFOUR which predate the registration of the disputed domain name.

The Panel finds that the disputed domain name is confusingly similar to the CARREFOUR trademarks owned by the Complainant.

Indeed, the disputed domain name incorporates the entirety of the Complainant's CARREFOUR trademark with the mere addition of a hyphen and the word "compte" (French word for "account").

The dominant part of the disputed domain name is the Complainant's trademark CARREFOUR, and the addition of the word "compte" does not avoid a finding of confusing similarity.

See, in similar circumstances: *Carrefour v. Jose Gaudet*, WIPO Case No. [D2018-2864](#).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark under paragraph 4(a)(i) of the Policy.

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

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

(i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, 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 (ii) the Respondent has been commonly known by the disputed domain names, even if the Respondent has acquired no trademark or service mark rights; or (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Considering the difficulty to demonstrate a negative, UDRP panels consistently find that if the complainant raises a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name under paragraph 4(a)(ii) of the Policy, the burden of production on this element shifts to the respondent to demonstrate its rights or legitimate interests in the disputed domain name.

See *De Beers Intangibles Limited v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2016-1465](#).

Here, the Complainant has stated that it has not authorized, licensed, or consented to the Respondent any use of its CARREFOUR trademark.

It results from these circumstances that the Respondent does not own any right in the trademarks CARREFOUR or is commonly known by the disputed domain name.

In the light of what is stated above, the Panel finds that the Complainant has made an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds from the available record that the second element of paragraph 4(a) of the Policy is fulfilled.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a panel to be evidence of bad faith registration and use of a domain name.

It provides that:

“For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

Since CARREFOUR is a well-known trademark and there is no evidenced relationship between the Parties, it may be inferred that the Respondent was aware of the Complainant's trademark at the time it registered the disputed domain name.

See, for example, *Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case No. [D2021-0274](#); *Carrefour SA v. Jurgen Neeme, hello@thedomain.io, Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Silvia Neeme and Jay Neeme*, WIPO Case No. [D2020-2088](#).

The Panel cannot conceive any use that the Respondent could make of the disputed domain name that would not interfere with the Complainant's trademark rights.

The Panel finds that the fact that the disputed domain name resolves to an inactive website, does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

In these circumstances the Panel holds that the disputed domain name was registered and is being used in bad faith.

The Panel finds that the above constitutes registration and use in bad faith pursuant to the third requirement of paragraph 4(a) 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 disputed domain name <carrefour-compte.app> be transferred to the Complainant.

/Alexandre Nappey/

**Alexandre Nappey**

Sole Panelist

Date: August 20, 2022