

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. abudllah salimi
Case No. D2022-2670

1. The Parties

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

Respondent is abudllah salimi, Saudi Arabia.

2. The Domain Name and Registrar

The disputed domain name <carrefour-app.com> is registered with Metaregistrar BV (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2022. On July 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 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 Complainant on July 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 26, 2022.

The Center verified that the Complaint together with 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 Respondent of the Complaint, and the proceedings commenced on July 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2022. Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2022.

The Center appointed Scott R. Austin as the sole panelist in this matter on August 25, 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

Complainant states in its Complaint, and provides evidence in the respective Annexes attached to its Complaint sufficient to support that:

Complainant is a major and well-known worldwide leader in retail, having pioneered the concept of hypermarkets since 1968, providing its retail store services under the trademark CARREFOUR (the “CARREFOUR Mark”). Complainant operates over 12,000 stores in more than 30 countries worldwide. With more than 384,000 employees worldwide and 1.3 million daily unique visitors in its stores. Complainant is listed on the index of the Paris Stock Exchange (CAC 40) and in 2018 had an annual turnaround of EUR 76 billion.

Complainant owns several hundred trademark registrations worldwide incorporating the CARREFOUR Mark, including:

International trademark No. 351147, CARREFOUR registered on October 2, 1968, for a range of goods in International Classes 1 through 34, and designating Benelux; Italy; Monaco; Spain; and

International trademark No. 353849, CARREFOUR, registered on February 28, 1969, for a range of services in International Classes 35 through 42, and designating Benelux; Croatia; Czech Republic; Estonia; France; Georgia; Ghana; Greece; Hungary; Italy; Latvia; Liechtenstein; Lithuania; Macedonia; Monaco; Morocco; Montenegro; Slovakia; Slovenia; Spain; San Marino.

Complainant has submitted with its Complaint a list of UDRP panel decisions finding that Complainant and its CARREFOUR Marks are widely well known, including in cases where the Respondent was located in Saudi Arabia. Complainant’s fame and notoriety is also shown in annexed evidence of its use of the CARREFOUR Mark on the Internet through social media, where Complainant’s Facebook page is currently “liked” by more than 11 million Internet users.

Complainant operates the following domain name reflecting its trademark in order to promote its services, <carrefour.com> created on October 25, 1995. Complainant operates a website accessible at the URL “www.carrefour.com” where it prominently uses the CARREFOUR Mark and features general information regarding its various retail store products and services. Complainant also offers its services also through dedicated mobile applications or “apps”, available for downloading from the most important dedicated channels, and in the Android Google Play Store alone, the Carrefour app counts over 5,000,000 downloads.

The disputed domain name was created on June 21, 2022, and at the time of filing of the Complaint navigation to the disputed domain name generated a security warning by the browser’s phishing and malware protection system which displayed the warning: “Deceptive site ahead. [Browser] blocked this page because it may trick you into doing something dangerous like installing software or revealing personal information like passwords or credit cards. [<]carrefour-app.com[>] has been reported as a deceptive site.”

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s well-known trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

There are no exceptional circumstances within paragraph 5(e) of the Rules to prevent this Panel from determining the present dispute based upon the Complaint as amended, notwithstanding the failure of Respondent to lodge a substantive formal Response in compliance with the Rules. Under paragraph 14 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”.

Where no substantive Response is filed, however, Complainant must still make out its case in all respects under paragraph 4(a) of the Policy. To succeed, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied. The Panel will address its findings on each of these requirements in more detail below.

The standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

A. Identical or Confusingly Similar

Ownership of a nationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant claims trademark rights in the CARREFOUR Mark for its retail store related goods and services dating back historically to 1968, and its registrations above for the CARREFOUR Mark dating back to that same year. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting trademark registration documents in the name of Complainant and therefore, Complainant has demonstrated it has rights in the CARREFOUR Mark. See, *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

With Complainant’s rights in the CARREFOUR Mark established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant’s CARREFOUR Mark. It is well accepted that 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”. [WIPO Overview 3.0](#), section 1.7.

Prior UDRP panels have held the fact that a domain name which wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other terms to such marks, “whether descriptive, geographical, pejorative, meaningless, or otherwise”. [WIPO Overview 3.0](#), section 1.8; see also, *Carrefour SA v. Privacy service provided by Withheld for Privacy ehf / Alan first, Alan Design*, WIPO Case No. [D2021-2671](#); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#).

A side-by-side comparison between the disputed domain name and Complainant’s Mark shows the disputed domain name is confusingly similar to the CARREFOUR Mark. The Mark is incorporated in its entirety into the disputed domain name followed only by a hyphen attaching the term “app”, an accepted shorthand for a mobile application program, and the Top-Level Domain (“TLD”) “.com”. Prior UDRP panels have also found the TLD, being viewed as a standard registration requirement, may typically be disregarded under the paragraph 4(a)(i) analysis. See, [WIPO Overview 3.0](#), section 1.11.1; see also *L’Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#).

Based on the above, this Panel finds that these additions do not prevent a finding of confusing similarity between the disputed domain name and Complainant’s well-known CARREFOUR Mark, which is identical as incorporated in its entirety into the disputed domain name. Accordingly, the Panel finds the disputed domain name confusingly similar to the CARREFOUR Mark in which Complainant has rights and Complainant has

satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, the complainant has to make out a *prima facie* case that the respondent does not have rights to or legitimate interests in the disputed domain name, upon which the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights to or legitimate interests in the disputed domain name. If the respondent fails to come forward with such evidence, a complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also, *The American Automobile Association, Inc. v. Privacy--Protect.org et al.*, WIPO Case No. [D2011-2069](#).

Paragraph 4(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or interests.

The first example, under paragraph 4(c)(i), is where “before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services”.

Here, the annex to the Complaint shows that attempts to access a website using the disputed domain name generated a security warning by the browser’s phishing and malware protection system which displayed: “Deceptive site ahead. [Browser] blocked this page because it may trick you into doing something dangerous like installing software or revealing personal information like passwords or credit cards. [<]carrefour-app.com[>] has been reported as a deceptive site.” Combining these facts with the disputed domain name’s confusing similarity to the CARREFOUR Mark, it is reasonable for the Panel to conclude that Respondent has prepared the disputed domain name to engage in a phishing scheme, or a scheme to install malicious malware on the computers of users attempting to access a website hosted at its address, both practices intended to defraud consumers into revealing personal and financial information. Use of a domain name for such illegitimate purposes is neither a *bona fide* offering of goods or services pursuant to paragraph 4(c)(i) nor a legitimate noncommercial or fair use pursuant to Policy paragraph 4(c)(iii). [WIPO Overview 3.0](#), section 2.13; see also, *Carrefour SA. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Ben Luis*, WIPO Case No. [D2021-2910](#); *Apple Computer, Inc. v. PrivacyProtect.org / PrivateRegistrations Aktien Gesellschaft*, WIPO Case No. [D2012-0879](#)

Paragraph 4(c)(ii) provides another scenario in which a respondent may demonstrate rights or legitimate interests in a disputed domain name by showing that the respondent is commonly known by the domain name. Complainant states that Respondent is not related in any way with Complainant, does not carry out any activity for, nor has any business with Respondent. Neither has Complainant granted any license or authorization to Respondent to make any use of Complainant’s CARREFOUR Mark or apply for registration of the disputed domain name. Complainant has never authorized Respondent to use the CARREFOUR Mark, or any marks confusingly similar thereto for any purpose, including as a domain name. Prior UDRP panels have found a lack of rights or legitimate interests under the second element of the Policy based on such circumstances. See, e.g., *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. [D2005-0179](#); *Guerlain S.A. v. H I Investments*, WIPO Case No. [D2000-0494](#).

Complainant also shows that Respondent is not commonly known by the disputed domain name because the Registrar identified the underlying registrant information in its verification process as “abudllah salimi”, of Saudi Arabia, which Complainant named as Respondent in its amended Complaint. Respondent does not bear any resemblance to the disputed domain name whatsoever. Thus, there is no evidence in this case to suggest that Respondent is commonly known by the disputed domain name, that it is licensed or otherwise authorized to use Complainant’s trademark, or that it has acquired any trademark rights relevant thereto. As such, the Panel finds this sub-section of the Policy is of no help to Respondent, and the facts presented here support a lack of rights or legitimate interests in the disputed domain name. See, *Confédération nationale du crédit mutuel v. Yu Ke Rong*, WIPO Case No. [D2018-0948](#); *Expedia, Inc. v. Dot Liban, Hanna El Hinn*,

WIPO Case No. [D2002-0433](#).

Complainant's evidence of use in the Complaint as amended, also supports Complainant's contention that Respondent cannot claim prior rights or legitimate interest in the disputed domain name as the CARREFOUR Mark precedes the registration of the disputed domain name by decades. See [WIPO Overview 3.0](#), Section 2.1.

In light of the above, and with no Response or other submission in this case to rebut Complainant's assertions and evidence, the Panel finds that the facts of this case demonstrate that Respondent has no rights or legitimate interests in the disputed domain name. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends and has shown in the annexes to its Complaint that Complainant is well known throughout the world and has an undisputable reputation in the retail store goods and services industry. Many UDRP panels have previously acknowledged Complainant's reputation and the CARREFOUR Mark to be "well-known" or "famous" worldwide, making it unlikely that Respondent was not aware of Complainant's rights. See, e.g., *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#), *Carrefour v. Tony Mancini, USDIET Whoisguard, Inc.*, WIPO Case No. [D2015-0962](#).

Complainant further contends that there is no other explanation to register the disputed domain name other than to target Complainant. Given its CARREFOUR Mark is well-known worldwide, and the disputed domain name incorporates its identical term in its entirety, the Panel finds bad faith registration based on Respondent's actual knowledge of the CARREFOUR Mark given its widespread recognition, including Saudi Arabia where Respondent is located. See *Carrefour v. Registration Private, Domains by Proxy LLC / Nisar Ahmad Zafar*, WIPO Case No. [D2016-2506](#).

Prior UDRP panels under similar circumstances have found where a well-known mark of worldwide reputation has been in use and registered for many years before Respondent registered the disputed domain name that it would be implausible to believe that Respondent selected and was using the disputed domain name for any purpose other than to trade on Complainant's trademark rights and reputation, establishing a fact pattern that repeatedly has been held to constitute bad faith registration. See *Alstom v. Domain Investments LLC*, WIPO Case No. [D2008-0287](#); see also *Houghton Mifflin Co. v. Weathermen, Inc.*, WIPO Case No. [D2001-0211](#).

Prior UDRP panels have also held that a respondent's selection of a disputed domain name that comprises the complainant's mark in its entirety demonstrates a respondent's actual knowledge to support a finding of bad faith in registering and using the domain. See, e.g., *Lloyds Bank Plc v. Marc Wiese*, WIPO Case No. [D2015-0914](#); see also, *Heineken Brouwerijen B.V. v Mark Lott*, WIPO Case No. [D2000-1487](#). Moreover, panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the widespread recognition of Complainant's CARREFOUR Mark, including Saudi Arabia, where

Respondent is located, and decades of use of the CARREFOUR Mark prior to Respondent's registration of the disputed domain name on June 21, 2022, the configuration of the disputed domain name in a manner which triggers security systems designed to identify and protect against websites that promote phishing and malware distribution schemes and blocks access to a website associated with the disputed domain name, the ultimate effect of any use of the disputed domain name will be to cause confusion with Complainant or worse, subject unprotected consumers seeking its products or services to such illegal schemes and tarnish Complainant's CARREFOUR Mark. Respondent's use and registration of the disputed domain name, therefore, must be considered to be in bad faith. See *Empresa Brasileira de Telecomunicações S.A Embratel v. Kevin McCarthy*, WIPO Case No. [D2000-0164](#).

Complainant also points out that this combination of facts has been held by prior UDRP panels as supporting a finding of bad faith use. See *Carrefour SA. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Ben Luis*, *supra*.

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied paragraph 4(a)(iii) 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-app.com>, be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: September 8, 2022