

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. jean mougrin, CDN
Case No. D2022-3371

1. The Parties

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

The Respondent is jean mougrin, CDN, United States of America.

2. The Domain Name and Registrar

The disputed domain name <connect-carrefour-secure.monster> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 12, 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 (Domain Administrator, See PrivacyGuardian.org, United States of America) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 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 September 21, 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 September 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2022.

The Center appointed James Wang as the sole panelist in this matter on November 1, 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 is listed on the index of the Paris Stock Exchange.

The Complainant owns hundreds of trademark registrations worldwide in which CARREFOUR is used. The vast majority were registered before the registration date of the disputed domain name. These include:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968 and renewed, designating goods in classes 1 to 34.
- International trademark CARREFOUR No. 353849, registered on February 28, 1969 and renewed, designating services in classes 35 to 42.

The Complainant is also the owner of numerous domain names consisting of or containing the CARREFOUR trademark. Among these, <carrefour.com> was registered in 1995.

The disputed domain name was created on April 29, 2022. The disputed domain name resolved to a standard welcome page used to test the correct operation of the Apache2 server after installation on Ubuntu systems. At the time of the Panel's decision in this case, the disputed domain name does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the CARREFOUR trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested 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 paragraph 4(a) of the Policy, the Complainant must prove 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.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the registrant of numerous CARREFOUR trademark registrations across different jurisdictions. The Complainant is also the owner of numerous domain names consisting of or containing the CARREFOUR trademark.

The applicable Top-Level Domain (“TLD”) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. The practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD; the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment of the first element. Therefore, the term “monster”, as the TLD of the disputed domain name, shall be disregarded under the confusing similarity test. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.

The disputed domain name incorporates the entirety of the Complainant’s CARREFOUR trademark. As the CARREFOUR trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant’s CARREFOUR trademark. The addition of “connect-” and “-secure” into the disputed domain name does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

According to the Complaint, the Complainant performed searches and found no CARREFOUR trademark owned by the Respondent. 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 has not authorized the use of its earlier CARREFOUR trademarks or terms similar thereto in the disputed domain name in any manner or form. The Respondent has not used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services.

The Respondent submitted no response or evidence to rebut the allegations of the Complainant.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Considering the above and the Panel’s findings below, the Panel therefore finds that the Complaint has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has provided evidence that the Complainant’s CARREFOUR trademark is widely known and has a long-lasting worldwide reputation.

Given the high reputation and the distinctive nature of the Complainant's CARREFOUR trademark, it would be inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's CARREFOUR trademark at the time of the registration. The Panel therefore agrees with the Complainant's contention that the disputed domain name was registered in bad faith.

The Complainant has also provided evidence that the disputed domain name resolved to a standard welcome page used to test the correct operation of the Apache2 server after installation on Ubuntu systems, without any substantive content, and later an inactive website. Furthermore, the Panel noticed that at the time of the decision in this case, the disputed domain name does not resolve to any active webpage. Under the doctrine of passive holding, the Respondent's non-use of the disputed domain name will not prevent a finding of bad faith under the circumstances of this case. The Panel agrees with the Complainant's contention that the Respondent is using the disputed domain name in bad faith. See [WIPO Overview 3.0](#), section 3.3.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) 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.

The Panel therefore finds that the Complaint 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 <connect-carrefour-secure.monster> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: November 15, 2022