

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. li jiang

Case No. D2022-4621

### **1. The Parties**

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

The Respondent is li jiang, China.

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

The disputed domain name <myaccountcarrefour.com> is registered with Cosmotown, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 2, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 13, 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 December 13, 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 December 14, 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 December 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2023.

The Center appointed Peter Wild as the sole panelist in this matter on January 16, 2023. 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 owner of the well-known trademark CARREFOUR, which it uses in more than 30 countries for a retail company and its services, especially supermarkets and so called hypermarkets. The Complainant runs 12,000 stores and goes back to 1968. The Complainant owns a large number of trademarks for CARREFOUR, such as International Registration No. 351147 registered on October 2, 1968, claiming protection in a wide range of countries or United States of America Registration No. 6763415 registered on June 21, 2022. The Complainant also owns a considerable number of domain names, including <carrefour.com>.

The Disputed Domain Name was registered on November 20, 2022. At the time of filing of the Complaint and writing this decision, the Disputed Domain Name resolves to a commercial pay-per-click page.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it is the owner of a number of trademarks consisting of its name CARREFOUR and that it has a strong reputation for the goods and business under this trademark. It is well known as confirmed by a number of previous UDRP panel decisions. The Complainant asserts that the Disputed Domain Name is confusingly similar to the above-mentioned CARREFOUR trademark. According to the Complainant, part of its business is an online store for which the Complainant offers services for consumers under the tab "my account". The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name, which was registered and is being used in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

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

The Complainant owns registered rights in the trademark CARREFOUR. The trademarks clearly predate the Disputed Domain Name. The trademark is fully integrated in the Disputed Domain Name. The trademark CARREFOUR is recognizable in the Disputed Domain Name. There is however one element in the Disputed Domain Name which differs from the Complainant's trademark:

- in the beginning, the words "myaccount".

Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements".

Therefore, the Panel finds that the addition of the term "myaccount" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's mark, as the Complainant's mark remains recognizable in the Disputed Domain Name.

Accordingly, the Disputed Domain Name, consisting of the CARREFOUR mark in its entirety, is confusingly similar to the Complainant's trademark regardless of the added term.

Therefore, the Panel is satisfied that the first element of the Policy is met.

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

The Complainant must establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating its rights or legitimate interests in the Disputed Domain Name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Respondent is not commonly known under the Disputed Domain Name and claims no connection with or authorisation from the Complainant. The Complainant also effected an Internet search for any trademark with the element “Carrefour” which could be held by the Respondent and did not identify any such trademark. The Respondent shows no legitimate activity at all under the website to which the Disputed Domain Name resolves. Previous UDRP panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users (section 2.9 of the [WIPO Overview 3.0](#); see also *Golden Bison Consolidated, LLC v. Registration Private, Domains By Proxy, LLC / Scott Sullivan*, WIPO Case No. [D2020-3532](#)).

The Disputed Domain Name in this case also resolves to a website displaying pay-per-click links. The Respondent therefore cannot show a *bona fide* offering or use of the Disputed Domain Name. See, e.g., *Instagram, LLC v. Asif Ibrahim*, WIPO Case No. [D2020-2552](#).

Moreover, the construction of the Disputed Domain Name, consisting of the CARREFOUR mark along with a term, which is purely descriptive, carries a risk of implied affiliation that cannot constitute fair use since it effectively impersonates or suggests sponsorship or endorsement by the Complainant contrary to the fact. [WIPO Overview 3.0](#), section 2.5.1.

In the absence of any rebuttal by the Respondent, the Complainant’s establishment of the *prima facie* case is sufficient.

With the evidence on file, this Panel is satisfied that the second element of the Policy is met.

## **C. Registered and Used in Bad Faith**

The Disputed Domain Name is used for a pay-per-click page. Taking into account the strength and fame of the Complainant’s trademark CARREFOUR, which was confirmed by a number of previous UDRP panels in recent decisions, and taking into account the construction of the Disputed Domain Name, the Panel is convinced that the Respondent was and is aware of the Complainant’s famous trademark. There is no conceivable explanation how the Respondent registered the Disputed Domain Name without having knowledge of the Complainant’s well-known trademark. In this Panel’s view, this establishes bad faith registration of the Disputed Domain Name.

Moreover, UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or 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. [WIPO Overview 3.0](#), section 3.1.4. Further, the use for a pay-per-click page of a domain name constitutes bad faith. [WIPO Overview 3.0](#), section 3.5; *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Golden Bison Consolidated, LLC v. Registration Private, Domains By Proxy, LLC / Scott Sullivan*, WIPO Case No. [D2020-3532](#).

This Panel therefore comes to the conclusion that the third element of the Policy is met.

## **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 <myaccountcarrefour.com> be transferred to the Complainant.

*/Peter Wild/*

**Peter Wild**

Sole Panelist

Date: January 25, 2023