

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Mark Benode

Case No. D2022-4819

1. The Parties

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

The Respondent is Mark Benode, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <carrefourwallet.net> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 15, 2022. On December 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 15, 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 January 6, 2023 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 January 11, 2023.

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 January 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 8, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on March 2, 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, Carrefour, is a global leader in food retail and operates nearly 12,000 stores and e-commerce sites in more than 30 countries. Carrefour is a group that employs more than 380,000 people worldwide and generated total sales of EUR 76 billion in 2018. Every day, Carrefour welcomes 1.3 million customers around the world.

With over 12,000 stores in more than 30 countries, Carrefour is a major player in global retail.

The Complainant additionally offers travel, banking, insurance and ticketing services.

The strength and renown of the Complainant's CARREFOUR trademark has already been recognized by previous UDRP panels.

The Complainant has proven to be the owner of the CARREFOUR trademarks, which enjoy protection through numerous registrations worldwide.

The Complainant is, *inter alia*, the owner of:

International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, covering goods in international classes 1 to 34;

International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42;

International trademark CARREFOUR No. 563304, registered on November 6, 1990, duly renewed and covering goods and services in international classes 1 to 42;

In addition, the Complainant is also the owner of numerous domain names identical to, and/or comprising, its trademarks, within both generic and national top-level domains. *Inter alia*, the Complainant is the owner of the domain name carrefour.com, registered since 1995.

The disputed domain name <carrefourwallet.net> was registered on November 21, 2022.

The disputed domain name resolves to a pay-per-click (PPC) page containing commercial links, some of which compete with goods also offered by the Complainant.

The Complainant's trademark registrations predate the registration of the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's registered trademarks; that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel 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 established rights in the CARREFOUR trademark.

The disputed domain name contains the Complainant's CARREFOUR trademark with the addition of the term "wallet" and the generic Top-Level Domain ("gTLD") ".net". The addition in the disputed domain name of these elements does not prevent a finding of confusing similarity, being the CARREFOUR trademark recognizable in the disputed domain name. Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "Where 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 the disputed domain name to be confusingly similar to the CARREFOUR trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name "Carrefour" or by any similar name. The Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademarks. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In fact, it appears from the document available, that the disputed domain name, resolves to a pay-per-click (PPC) page containing commercial links. Finally, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and agrees with the Complainant's contentions that the disputed domain name was registered and has been used in bad faith.

The CARREFOUR trademark has been registered and used for several decades all over the world, it enjoys a widespread reputation and high degree of recognition as a result of its fame and renown and thus the CARREFOUR mark is not one that traders could legitimately adopt other than for the purpose of creating the impression of an association with the Complainant.

Consequently, the Panel finds that the Respondent knew of the Complainant's marks and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain name.

Further inference of bad faith registration and use of the disputed domain name is given by the fact that the Respondent has not denied the assertions of bad faith made by the Complainant in this proceeding, so it is therefore reasonable to assume that if the Respondent had legitimate purposes for registering and using the disputed domain name, it would have responded to these assertions.

In addition, the Panel finds that the Respondent's use of the disputed domain name constitutes a disruption of the Complainant's business and qualifies as bad faith registration and use under the Policy.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the 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, <carrefourwallet.net> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: March 13, 2023