

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Milen Radumilo

Case No. D2023-1931

### **1. The Parties**

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

The Respondent is Milen Radumilo, Romania.

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

The disputed domain name <carrefour.com> is registered with SNAPNAMES, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2023. On April 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 2, 2023, 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 (PERFECT PRIVACY, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 2, 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 May 4, 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 May 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2023.

The Center appointed Tao Sun as the sole panelist in this matter on June 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 is an operator of retail and hypermarkets since 1968 with the turnaround of EUR 80.7 billion in 2019. The Complainant operates more than 12,000 stores in more than 30 countries worldwide, has 321,000 employees worldwide, 11 million of daily checkout in its stores, and 1.3 million daily unique visitors in its online stores.

The Complainant owns several hundred trademark registrations worldwide in the “Carrefour” term. In particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating 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.

The Complainant is the owner of numerous domain names identical to its CARREFOUR trademarks, both within generic and country code Top-Level Domains, including <carrefour.com> which has been registered since 1995.

The disputed domain name resolves to a parking page displaying pay-per-click (“PPC”) links. This page also had a link to a website where the disputed domain name was offered for sale, at the time of filing the Complaint, with the price of USD 2,888.

#### **5. Parties’ Contentions**

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

The Complainant submits that the disputed domain name is highly similar to its earlier registered trademarks CARREFOUR, as the disputed domain name is almost identical to the earlier trademark CARREFOUR, with the simple addition of a “r”.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) the Complainant does not find any CARREFOUR trademark owned by the Respondent, neither does the Complainant locate any uses of CARREFOUR trademark by the Respondent; and (2) the Respondent has not been licensed or authorized by the Complainant to register or use the disputed domain name. The burden of proof should be shifted to the Respondent to establish its rights or legitimate interests it may have in the disputed domain name.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, since (1) the Complainant’s trademark CARREFOUR is so well known that it is inconceivable that the Respondent ignored the Complainant or its earlier rights on the trademark CARREFOUR; (2) the Respondent acquired the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant’s earlier marks; (3) the Complainant’s CARREFOUR trademark registrations significantly predate the registration date of the disputed domain name; and (4) the current use of the disputed domain name should not be considered a good faith use.

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

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 Panel finds that the Complainant owns the trademark CARREFOUR by registration. The disputed domain name is almost identical to the trademark CARREFOUR, with the simple addition of an extra letter “r”. The addition of the letter “r” does not prevent the disputed domain name from being confusingly similar with the Complainant’s trademark. Furthermore, considering the well-known status of the Complainant’s trademark, such misspelling is likely made intentionally. It has been widely recognized that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar with the relevant mark (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9).

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

### B. Rights or Legitimate Interests

Though the Policy requires the Complainant to prove all three elements of paragraph 4(a) have been met, it nevertheless has been widely recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “providing negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, once the Complainant makes a *prima facie* case that the Respondent lacks rights or legitimate interests, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights and legitimate interests in the disputed domain name. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

The Panels maintains that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons:

- (i) the Complainant asserts that the Respondent has not been licensed or authorized by the Complainant to register or use the disputed domain name;
- (ii) the Respondent is not using the disputed domain name in connection with any *bona fide* offering of goods or services, or making a legitimate noncommercial or fair use of the disputed domain name. Instead, the disputed domain name is merely directed to a PPC webpage with a link to another website where the disputed domain name is offered for sale.
- (iii) the Complainants has performed trademark search and found no trademark registration of the Respondent related to the disputed domain name.

Now the burden of production shifts to the Respondent, who however does not present any evidence of any rights or legitimate interests it may have in the disputed domain name and therefore fails to meet this burden.

As such, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied in this case.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that “[...] for the purposes of paragraph 4(a)(iii) of the Policy, 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 [the Respondent has] registered or has 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 the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

(ii) that [the Respondent has] 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 [the Respondent has] engaged in a pattern of such conduct; or

(iii) that [the Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] 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 [the Respondent's] website or location or of a product or service on [the Respondent's] website or location”.

Panels have consistently found that mere registration of a domain name that is 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 (see [WIPO Overview 3.0](#), section 3.1.4). In this case, since the CARREFOUR mark is distinctive and well known, the Panels finds that the Respondent likely knew of the Complainant and deliberately registered the disputed domain name in bad faith.

Furthermore, as shown by the evidence of the Complainant, the disputed domain name resolves to a PPC webpage with a link to another website where the disputed domain name is offered for sale for USD 2,888. The PPC links displayed on the website refer to the Complainant's industry, and thus such use constitutes the bad faith in accordance with paragraph 4(b)(iv) of the Policy. Furthermore, since the Respondent has no rights or legitimate interests over the disputed domain name, its offer for sale is likely “for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name”, which amounts to the bad faith use under the paragraph 4(b)(i) of the Policy.

The Panel therefore concludes that the requirement of paragraph 4(a)(iii) of the Policy is also satisfied in this case.

### 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.com>, be transferred to the Complainant.

*/Tao Sun/*

**Tao Sun**

Sole Panelist

Date: June 16, 2023