

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Kouadio Alai tsiranana kouakou
Case No. D2023-1936

1. The Parties

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

The Respondent is Kouadio Alai tsiranana kouakou, Côte d'Ivoire.

2. The Domain Name and Registrar

The disputed domain name <carrefourgroup-distribution.com> is registered with GoDaddy.com, 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 1, 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 (Registration Private / Domains By Proxy, 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 5, 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 June 1, 2023.

The Center appointed Ahmet Akgüloğlu as the sole panelist in this matter on June 6, 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 SA, is a global company that is a leading player in the retailing industry and also operates in various other sectors such as banking and insurance. The Complainant is also one of the most popular and well-known grocery chains worldwide, with operations on four continents.

The Complainant has ownership of several trademarks throughout the world, including International trademark registrations for CARREFOUR, such as: International trademark registration No. 351147, registered on October 2, 1968, and International trademark registration No. 353849, registered on February 28, 1969. The Complainant has ownership of the trademark registration for CARREFOUR MARKET International trademark registration No. 1034794, registered on December 23, 2009.

The disputed domain name was registered on April 10, 2023, and resolves to a registrar parking page with pay-per-click links.

5. Parties' Contentions

A. Complainant

(a) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant argues that there is a likelihood of confusion between the Complainant's earlier well-known CARREFOUR trademark and the disputed domain name. The Complainant submits that the disputed domain name, which includes the Complainant's earlier well-known trademark with phrases "group" and "distribution", is confusingly similar to its well-known trademarks.

(b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant confirms that the Respondent has no rights or legitimate interests in the domain name and asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy, in order to demonstrate rights or legitimate interests in the disputed domain name.

The Complainant reaffirms that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy and is not a licensee of the Complainant, nor has the Respondent been otherwise authorized by the Complainant to make any use of the Complainant's CARREFOUR trademark in a domain name or otherwise.

The Complainant claims that the Respondent cannot legitimately claim to be commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. The Complainant states that there is no evidence of the Respondent having acquired or applied for any trademark registrations for "carrefour" as reflected in the disputed domain name to the best of the Complainant's knowledge.

The Complainant asserts that the Respondent is not currently making a legitimate noncommercial or fair use of the disputed domain name and further notes that the disputed domain name resolves to a pay-per-click page with commercial links. The Complainant detected a LinkedIn profile belonging to the Respondent which reveals information regarding the Respondent's import/export and wholesale business of several products. Based on these reasonings, the Complainant asserts that it has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production therefore shifts to the Respondent to come forward with evidence to rebut the Complainant's case against it and the Complainant may be deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy in the absence of such evidence.

(c) The disputed domain name was registered and is being used in bad faith.

The Complainant contends that the Respondent was fully aware of the Complainant's well-known trademark at the time of disputed domain name registration. In connection with well-known trademark, the Complainant argues that a simple Google research would have easily disclosed registered CARREFOUR trademark and business activities since the Complainant also has business and active stores in Côte d'Ivoire where the Respondent operates its business. The Complainant also submits that the Respondent works in similar business field and completely ignored the Complainant's prior trademark rights since it is not possible for the Respondent to be unaware of the CARREFOUR trademark. Furthermore, the Complainant asserts that the Respondent used its CARREFOUR trademark with the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the disputed domain name. Additionally, the Complainant's trademarks go further back in time than the disputed domain name registration. The current use of the disputed domain name may not be considered a good faith use. The disputed domain name resolves to a pay-per-click page of commercial links and the Complainant references a UDRP decision that states "Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith". Considering the mentioned elements of the Complaint, the Complainant submits that the Respondent has acted in bad faith when registering and using the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant must meet the following conditions to succeed in regards to the disputed domain name, according to paragraph 4(a):

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel notes the guidance at paragraph 14(a) of the Rules: "In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint."

A. Identical or Confusingly Similar

The Complainant has provided sufficient evidence regarding its rights in the CARREFOUR trademark registered in various jurisdictions.

The disputed domain name is composed of the terms "carrefour", "group", and "distribution".

"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". (see [WIPO Overview 3.0](#), section 1.8.) In the view of the Panel, the addition of these terms does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's marks.

For the reasons explained above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks as required by the Policy 4(a)(i).

B. Rights or Legitimate Interests

The evidence presented demonstrates that the Complainant is the owner of multiple CARREFOUR trademark registrations used in the disputed domain name. There is no evidence that the Respondent has any authorization, license, or permit to use the Complainant's registered trademarks.

Even though the overall burden of proof is on the Complainant in a proceeding under the Policy (see section 2.1 of [WIPO Overview 3.0](#)), panels recognize the often impossible task of "proving a negative". Hence, where a complainant presents a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name, the burden of production transfers to the respondent in order to come forward with relevant documentation, which proves the respondent's legitimate rights (see *NUTREXPA, S.A. v. Juan Silher*, WIPO Case No. [D2000-1386](#) and *Ritual Beverage Company LLC v. Tom Tom, Tom Tom S. DE R.L. DE C.V.*, WIPO Case No. [D2021-3643](#)). Here, the Respondent has not submitted any response to the Complaint.

Considering that the Respondent did not provide any evidence regarding its rights or legitimate interests on the disputed domain name or any trademark registration containing CARREFOUR term, it is clear to the Panel that the Respondent has failed to provide evidence of any the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with any *bona fide* offering of goods or services.

It is understood by the Panel that the disputed domain name resolves to a pay-per-click page of commercial links related to the business of the Complainant. Under the inspection of UDRP paragraph 4(c), hosting a page containing pay-per-click links that competes with or capitalizes on the reputation and goodwill of the complainant's mark does not represent a *bona fide* offering since such links may mislead Internet users. (See *Golden Bison Consolidated, LLC v. Registration Private, Domains By Proxy, LLC / Scott Sullivan*, WIPO Case No. [D2020-3532](#)) Additionally the Panel affirms that there is no evidence regarding legitimate noncommercial use of the disputed domain name by the Respondent since there was no evidence provided by the Respondent.

Based on the facts presented in the Complaint, the Panel determines that the use of the disputed domain name, which integrates the Complainant's trademark in its entirety, indicates an awareness of the Complainant and its trademark and intent to take unfair advantage of such, which does not correspond to a legitimate noncommercial or fair use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark CARREFOUR is registered by the Complainant in several jurisdictions and has become well known worldwide (see *Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case [D2021-0274](#), *Carrefour SA. v. Reliant-web Domain Admin / Jean Marie Grolleau / Joanne Elvert*, WIPO Case [D2021-2389](#)).

The registration of the disputed domain name by the Respondent was on April 10, 2023, after the CARREFOUR trademark was registered.

By adding the terms "group" and "distribution" to the Complainant's well-known trademarks CARREFOUR, the Panel finds that the Respondent aims to gain unfair benefit from the trademark. UDRP 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 section 3.1.4 of the [WIPO Overview 3.0](#)).

In terms of Complainant's arguments regarding the bad faith use of the disputed domain name to resolve to a pay-per-click website, the Panel evaluates that the ongoing use of the disputed domain name cannot be seen as a good faith use. Even though such competing links may have been directly generated by the

service provider, the Respondent may not disclaim responsibility for content appearing within the website associated with the disputed domain name (see section 3.5, [WIPO Overview 3.0](#)).

For the above reasons and in light of these circumstances, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used in bad faith.

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 <carrefourgroup-distribution.com> be transferred to the Complainant.

/Ahmet Akgüloğlu/

Ahmet Akgüloğlu

Sole Panelist

Date: June 20, 2023