

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. jean noel ballart

Case No. D2023-2225

### **1. The Parties**

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

The Respondent is jean noel ballart, France.

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

The disputed domain names <carrefourb.com> and <panel-carrefour.com> are registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. On May 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 29, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (On behalf of carrefourb.com OWNER and On behalf of panel-carrefour.com OWNER c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 5, 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 July 7, 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 July 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on August 11, 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 French company Carrefour SA, a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968.

With a turnaround of EUR 76 billion in 2018, the Complainant operates more than 12.000 stores in more than 30 countries worldwide.

With more than 384.000 employees worldwide and 1.3 million daily unique visitors in its stores, the Complainant is a major and well-known worldwide leader in retail.

The Complainant owns numerous CARREFOUR trademark registrations around the world, among which:

- International trademark CARREFOUR, No. 351147, registered on October 2, 1968, duly renewed, covering services in classes 01 to 34;
- International trademark CARREFOUR, No. 353849, registered on February 28, 1969, duly renewed, covering services in classes 35 to 42;
- European Union Trade Mark CARREFOUR No. 5178371, registered on August 30, 2007, duly renewed, covering services in classes 9, 35, and 38.

In addition, the Complainant is also the owner of numerous domain names including for example the following ones:

- <carrefour.com> registered since 1995;
- <carrefourpanel.eu> registered since 2013.

The two disputed domain names were registered:

- <carrefourb.com> on May 7, 2023;
- <panel-carrefour.com> on May 10, 2023.

At the time of the drafting of the Decision:

- <carrefourb.com> is not active;
- <panel-carrefour.com> resolves to a web page that warns Internet users that they may be tricked into doing something dangerous like installing software or revealing their personal information, such as passwords or credit cards number.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that (i) the disputed domain names are confusingly similar to the Complainant's trademarks; (ii) the Respondent has no rights or legitimate interests in the disputed domain names; and (iii) the Respondent registered and is using the disputed domain names in bad faith. The Complainant requests the transfer of the disputed domain names.

- (i) The Complainant claims that the disputed domain names are confusingly similar to its earlier well-known trademarks, since the disputed domain names reproduce its CARREFOUR trademarks together with the letter "b" and the word "panel", respectively. For the Complainant, it is well established that, where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive, geographical, pejorative, meaningless, or other terms does not prevent a

finding of confusing similarity. For the Complainant the dominant feature of the disputed domain names is the Complainant's mark CARREFOUR, the adjunction of the term "panel" or the letter "b" are insufficient to avoid confusing similarity between the disputed domain names and the Complainant's trademark.

- (ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain names: The Respondent has acquired no trademark in the terms CARREFOUR or CARREFOURB, the Complainant has not licensed or otherwise permitted the Respondent to use its trademark CARREFOUR. The Respondent is not commonly known by the disputed domain names. In addition, the Respondent has made no use or preparation of use of the disputed domain names in relation to a *bona fide* offering of goods or services.
- (iii) Due to the strong reputation and well-known character of the trademark CARREFOUR, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademark at the time the disputed domain names were registered. Moreover, for the Complainant, it cannot be considered a coincidence the fact that the disputed domain name <panel-carrefour.com> is also confusingly similar to Complainant's <carrefourpanel.eu> domain name. In addition, the Complainant alleges that is very likely that the Respondent chose the disputed domain names because of their similarity or identity with a trademark in which the Complainant has rights and legitimate interests. The Complainant thus states that the Respondent acquired and is using the disputed domain names to attract Internet users by creating a likelihood of confusion with the Complainant's earlier marks. The Complainant also claims that the Respondent's use of the disputed domain names is made in bad faith, as the disputed domain names are not actively used.

## **B. Respondent**

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

## **6. Discussion and Findings**

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain names, the Complainant must prove each of the following, namely that:

- i) the disputed domain names are 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 names; and
- iii) the disputed domain names were registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

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

The Panel is satisfied that the Complainant owns exclusive trademark rights in CARREFOUR which predate the registration of the two disputed domain names.

The Panel finds that the disputed domain names are confusingly similar to the registered CARREFOUR trademarks owned by the Complainant.

Indeed, the disputed domain names incorporate the Complainant's trademark CARREFOUR in its entirety and the term "-panel" or the addition of the letter "b" do not avoid a finding of confusing similarity between the disputed domain names and the Complainant's trademarks.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's mark under paragraph 4(a)(i) of the Policy.

### **C. Rights or Legitimate Interests**

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain names.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names: The Respondent is not commonly known under the disputed domain names, nor owns any registered rights on the disputed domain names or has been authorized by the Complainant to use the prior trademarks in any way.

The Panel does not find any indications that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or has rights or legitimate interests in any other way in the disputed domain names. On the contrary, the disputed domain names resolve to an inactive website and for one of the two disputed domain names, to a warning web page.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not proved otherwise.

Given these circumstances, the Panel finds that the second element of the Policy has been satisfied.

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

With regards to the registration of the disputed domain names, the Panel finds that at the time of the registration, the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities. Indeed, given the fact that the Complainant's CARREFOUR trademarks are well-known worldwide and distinctive, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademarks.

This finding is emphasized by the fact that the disputed domain names incorporate the Complainant's trademark CARREFOUR in its entirety to which are added the word "panel" which directly refers to one of the Complainant's previous domain name, or the letter "b" that constitutes typosquatting. For this Panel, it is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when he registered the disputed domain names.

In addition, the Respondent acquired not only one but two disputed domain names incorporating the Complainant's trademarks.

Therefore, the Panel is convinced that the disputed domain names were registered in bad faith by the Respondent.

As for use of the disputed domain names in bad faith, it has been long established, that passive holding of the disputed domain names may be considered bad faith use.

In the present case, each disputed domain name directs to an inactive page.

The Panel notes that one of the disputed domain names directs to site identified a web page that warns Internet users that they may be tricked into doing something dangerous like installing software or revealing [their] personal information as passwords, credit cards number.

The Panel finds that while this is not conclusive evidence of actual illegal activity, it is evidence that supports the un rebutted argument that the Respondent may be using the disputed domain names for fraudulent activity.

As the Panel established that the disputed domain names bear a potential risk of cyberthreat, the use of the disputed domain names for an illegal activity would also be considered abusive registration and use of the disputed domain names under the Policy.

Even if there is no active use of the disputed domain names, in view of its composition, the Panel finds that the passive holding of the disputed domain names would not prevent a finding of bad faith.

In the light of the above, the Panel finds that the disputed domain names have been registered and are used in bad faith pursuant to 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 names, <carrefourb.com> and <panel-carrefour.com>, be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: August 25, 2023