

## **ADMINISTRATIVE PANEL DECISION**

### **Carrefour SA v. Bao Bao Liu, Sui Yuan**

### **Case No. D2023-3050**

#### **1. The Parties**

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

The Respondent is Bao Bao Liu, Sui Yuan, China.

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

The disputed domain name <carrefoursq.com> (the “Disputed Domain Name”) 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 July 17, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 18, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 19, 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 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 10, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on August 17, 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 a Paris Stock Exchange listed company founded in 1968 that operates a business providing supermarkets, retail stores, and convenience stores in 30 countries with sales of EUR 80.7 billion in 2019. The Complainant holds registrations for the trademark CARREFOUR and variations of it in numerous jurisdictions, including, for example, International registration No. 351147, registered on October 2, 1968.

The Complainant owns numerous domain names that comprise of, or contain, the trademark CARREFOUR, including the domain name <carrefour.com>, which was registered on October 25, 1995.

The Disputed Domain Name was registered on May 12, 2023 and it resolves to an inactive webpage.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant cites its trademark registrations in numerous countries for the mark CARREFOUR and variations of it, as *prima facie* evidence of ownership.

The Complainant submits that the mark CARREFOUR is well-known and that its rights in that mark predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name is comprised of the CARREFOUR trademark with the addition, it submits, of "the term "sg" that is notably the ISO code for Singapore". It also submits that the confusing similarity is not removed by the addition of the letters "sg", or the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because "it has not authorized the use of its trademark or terms similar thereto in the [D]isputed [D]omain [N]ame in any manner or form" and none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and well-known nature of the Complainant's trademark, and advances the argument that the passive holding of the Disputed Domain Name would not prevent a finding of bad faith.

##### B. Respondent

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

#### 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

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

## A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark CARREFOUR in numerous countries. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected URDP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the CARREFOUR trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark CARREFOUR; (b) followed by the letters "sg"; (c) followed by the gTLD ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11). The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "carrefoursg".

On conducting a side-by-side comparison of the Disputed Domain Name and the textual components of the relevant trademark, it is apparent that as the relevant mark is incorporated in its entirety and as such is recognizable in the Disputed Domain Name, the addition of the letters "sg" would not prevent a finding of confusing similarity under the first element. This Panel therefore finds that the Disputed Domain Name is confusingly similar to the Complainant's CARREFOUR trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

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

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends, in summary, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because (i) the Disputed Domain Name is inactive; (ii) the Respondent has not acquired or owned any trademark or service mark rights in the name CARREFOUR, and has not been commonly known by the name CARREFOUR; (iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain; and (iv) (it submits) that "the Respondent redirects the disputed domain name towards an empty webpage names "admin" in its browser tab title, which is adorned with the Complainant's logo. Such use suggests that the Respondent intends to impersonate the Complainant (eg. In phishing campaigns or fake orders scams)".

The Panel notes the evidence that the Disputed Domain Name in this proceeding resolves to an inactive webpage supports the Complainant's submission on that point and finds that this does not represent a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant's mark or capacity to otherwise mislead Internet users. On balance, the Panel is satisfied that a *prima facie* case exists that the Respondent lacks rights or legitimate interests. In view of the evidence that calls for an explanation from the Respondent, and in the absence of a Response, this Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Panel finds for the Complainant on the second element of the Policy.

### C. Registered and Used in Bad Faith

The third element of the Policy that the Complainant must also demonstrate is that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the well-known nature of the Complainant's trademark, the Panel is satisfied that the Respondent knew of and targeted the Complainant's trademark CARREFOUR when it registered the Disputed Domain Name (see *Carrefour v. Richard Mandanice*, WIPO Case No. [D2002-0623](#) ("The Complainant is the owner of at least two well-known CARREFOUR trademarks"); *Carrefour S.A. v. Damian Macafee*, WIPO Case No. [D2002-1060](#) ("the trademark CARREFOUR is internationally well-known"); *Carrefour v. Iwama*, WIPO Case No. [D2007-1522](#) ("the Complainant's well known Trademark"); *Carrefour, S.A., Viajes Carrefour S.L. v. Pablo Iglesias Junco*, WIPO Case No. [D2008-1040](#) ("the Panel finds that the trademark CARREFOUR is well-known")).

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's well-known trademark (see [WIPO Overview 3.0](#), section 3.1.4).

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) can indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Name almost 55 years after the Complainant established registered trademark rights in the CARREFOUR mark.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name does not currently resolve to an active website. Previous UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the 'passive holding' doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put" (See [WIPO Overview 3.0](#), section 3.3). This Panel notes that the evidence is that at least three of these four factors are present in this proceeding.

In the absence of any evidence to the contrary, this Panel finds that the Respondent has taken the Complainant's trademark CARREFOUR and incorporated it in the Disputed Domain Name without the Complainant's consent or authorization, for the purpose of capitalizing on the reputation of the trademark to infringe upon the Complainant's rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 <carrefoursq.com> be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: August 25, 2023