

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Ibrahim Ghazali, Yegara HOST
Case No. D2023-5403

1. The Parties

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

Respondent is Ibrahim Ghazali, Yegara HOST, Ethiopia.

2. The Domain Name and Registrar

The disputed domain name <carrefoureth.com> (the “Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to Complainant on January 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 5, 2024.

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 Respondent of the Complaint, and the proceedings commenced on January 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 29, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on January 31, 2024. 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

Complainant is a worldwide leader in retail and hypermarkets starting in 1968. With a turnaround of EUR 76 billion in 2018, Complainant is listed on the index of the Paris Stock Exchange (CAC 40). Complainant operates more than 12,000 stores in more than 30 countries worldwide and additionally offers travel, banking, insurance, or ticketing services. Complainant has more than 384,000 employees worldwide and 1.3 million daily visitors in its stores.

Complainant is the owner of numerous trademarks for CARREFOUR worldwide including:

- International trademark registration No. 351147, CARREFOUR (word), registered on October 2, 1968, for goods in international classes 01 to 34; and

- International trademark registration No. 353849, CARREFOUR (word), registered on February 28, 1969, for services in international classes 35 to 42.

The CARREFOUR brand enjoys wide reputation, as repeatedly recognised (*Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#); *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2610](#)).

The Domain Name was registered on December 19, 2023, and leads to a “coming soon” page, in which the words “CARREFOUR Ethiopia coming soon” appear along with a logo, while the word CARREFOUR is written in a way that resembles the trademarks of Complainant. As Complainant demonstrated, the logo reproduced corresponds to the Carrefour-compliant version of the logo used by Complainant’s exclusive distributor in Africa and the Middle East.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, the letters "eth", the alpha-3 ISO code identifying Ethiopia, may bear on assessment of the second and third elements, the Panel finds the addition of such letters does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent did not demonstrate any prior to the notice of the dispute use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolved to a "coming soon" page with a logo mimicking that of Complainant's.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

To the extent that the website at the Domain Name displays a text stating "coming soon", which previous panels have considered equivalent to a passive holding, the Panel notes that panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding.

Complainant's CARREFOUR trademark is well known (see for example *Carrefour v. rabie nolife*, WIPO Case No. [D2019-0673](#); *Carrefour v. Jane Casares, NA*, WIPO Case No. [D2018-0976](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#); *Carrefour v. Tony Mancini, USDIET Whoisguard, Inc.* WIPO Case No. [D2015-0962](#)). Because the CARREFOUR mark had been widely used and registered by Complainant at the time of the disputed domain name registration and enjoyed reputation, the Panel finds it more likely than not that Respondent had Complainant's trademark in mind when registering the disputed domain name (*Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)). Furthermore, the whole of Complainant's trademark is included in the disputed domain name. Last, on the "coming soon" page under the disputed domain name, the words "CARREFOUR Ethiopia coming soon" appear, while the word "Carrefour" is written in a way that mimics the trademarks of Complainant and is combined with a logo that resembles those of Complainant's local partner in Africa, giving the impression that the disputed domain name is that of Complainant or affiliated with or endorsed by Complainant. The above are a clear indication that Respondent knew of Complainant and its trademarks and chose the Domain Name having those in mind.

Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith use in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes a) the reputation of the Complainant's trademark, b) the fact that Respondent has not submitted a response, c) the fact that Respondent used a privacy shield when registering the disputed domain name, d) the composition of the disputed domain name, which incorporates Complainant's trademark entirely, e) the imitation of Complainant's trademarks and of Complainant's partner in Africa's logo in the "coming soon" page under the disputed domain name, and f) the words "CARREFOUR Ethiopia coming soon" on the page under the disputed domain name, which give the impression that the page originates from Complainant in that Complainant will open an establishment in Ethiopia soon, creating a risk of confusion in the mind of the public of average attention as to the affiliation, endorsement or sponsorship of the disputed domain name by Respondent. Taking all the above into account, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that Complainant has established the third element 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, <carrefoureth.com>, be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: February 14, 2024