

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Redacted for Privacy, Domains By Proxy, LLC, and Waleed Ahmad

Case No. D2024-0053

1. The Parties

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

The Respondents are Redacted for Privacy, Domains By Proxy, LLC, United States of America (“United States”), and Waleed Ahmad, United States

2. The Domain Names and Registrar

The disputed domain names <supeco.info>, <supeco.online>, and <supeco.site> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 8, 2024. On January 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 8, 2024, 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 (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 9, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint January 15, 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 the Respondent of the Complaint, and the proceedings commenced on January 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2024. The Respondent did not submit any response.

However, the Center received informal email communications from a third-party on January 23, and February 8, 2024. Accordingly, the Center informed the Parties of its commencement of Panel appointment process on February 13, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on February 19, 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

The Complainant is retailer listed on the Paris Stock Exchange. Amongst other things, it pioneered the hypermarket retail concept, with the first hypermarkets being opened in 1968.

The Complainant operates more than 12,000 stores in more than 30 countries around the world. It has more than 320,000 employees worldwide. Its stores process 11 million “daily checkouts” and it has 1,300,000 unique visitors to its only stores. In 2018, its revenues were EUR 80.7 billion.

One of the Complainant’s business lines is a chain of (what it describes as) “soft-discount” stores under the brand name SUPECO. The business model strives to combine low prices and quality goods. The Complainant operates this chain in Spain and Romania (where there are 28 stores) and France (where there are 30 stores) and Cameroun, Cote d’Ivoire, and Senegal. According to press reports included in the Complaint, the first SUPECO stores were opened in Spain in 2012.

The Complainant also holds numerous domain names based on SUPECO, at least some of which are used as the URL for an online store, for example <supeco.fr> and <supeco.ro>.

The Complaint includes evidence that the Complainant owns two European Union Trademarks (“EUTM”):

- (a) EUTM No. 010884682, SUPECO and device, which was filed on April 30, 2012, and registered on June 19, 2015, in respect of a range of services in International Classes 35 and 39; and
- (b) EUTM No. 010884741, SUPECO and device, which was also filed on April 30, 2012, and registered on January 24, 2017, in respect of a range of services in International Classes 35 and 39.

The disputed domain names were all registered on July 27, 2023.

When the Complaint was filed, each disputed domain name resolved to a parking page provided by the Registrar for free and featuring three pay-per-click (“PPC”) advertising links in French for home delivery services.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain names, the Complainant must demonstrate each of the following:

- (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 name have been registered and are being used in bad faith.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

The informal responses received by the Center on January 23 and February 8, 2024, were sent in the name of "Waleed Ahmad". This is the same name as the name of the registrant of the second and third disputed domain names confirmed by the Registrar, but using a different email address to the email contacts for the registrant provided by the Registrar.

In his second email, Mr. Ahmad states that all three disputed domain names are related to the Maslamani Group of Palestine.

At the very least, the Panel can take Mr. Ahmad's communication as indicating that all three disputed domain names are under common control.

In addition, all three disputed domain names were registered on the same day and with the same Registrar.

Accordingly, consolidation of all three disputed domain name in the proceeding is appropriate. For ease of reference, the Panel will refer to the registrants (if different) as "the Respondent" unless it is necessary to distinguish between the holder of the different disputed domain names.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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 the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain names must be shown to be identical or confusingly similar to the trademark.

The Complainant has proven ownership of the EUTMs for SUPECO and device:



In undertaking the comparison of the disputed domain names to the Complainant's trademark, it is permissible in the present circumstances to disregard the generic Top-Level Domain ("gTLD") components as functional aspects of the domain name system. [WIPO Overview 3.0](#), section 1.11.1.

It is also usual to disregard the design elements of a trademark under the first element as such elements are generally incapable of representation in a domain name. Where the textual elements have been disclaimed in the registration or cannot fairly be described as an essential or important element of the trademark, however, different considerations may arise. See for example, [WIPO Overview 3.0](#), section 1.10. The figurative elements of the Complainant's trademarks are not so dominating that the verbal element cannot be considered an essential or important part of the trademarks in this case. Accordingly, it is appropriate to apply the usual rule.

Disregarding the gTLD components, each disputed domain names consists of the Complainant's registered trademark.

Accordingly, the Panel finds that the Complainant has established that each disputed domain names are identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

In the present case, the Respondent registered the disputed domain names after the Complainant began using its trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain names and, in addition, that the Respondent is not affiliated with it.

The disputed domain names are not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain names could be derived.

Based on the Complainant's trademark searches, it appears that the Respondent does not hold any trademarks for the disputed domain names.

The use of the disputed domain names to generate revenue through PPC links does not qualify as a legitimate noncommercial or fair use for the purposes of paragraph 4(c)(iii) of the Policy especially where, as here, the links appear to compete with the services provided by the Complainant, including under its SUPECO trademark. There is no evidence before the Panel of any efforts by the Respondent to suppress such activity. [WIPO Overview 3.0](#), section 2.9.

In answer, Mr. Ahmad's emails do claim that the disputed domain names were registered for the Maslamani Group in Palestine, which recently had entered into some sort of arrangement with the Complainant. This claim is made in the face of the Complainant's denial of any association.

Ordinarily, it would not be sufficient merely to claim some right or entitlement to use a domain name. So, for example, where a respondent seeks to rely on demonstrable preparations for use, a bare assertion of intention is not usually sufficient. Some form of corroborating evidence is usually required. See e.g. [WIPO Overview 3.0](#), section 2.2.

In this case, Mr. Ahmad has not explained his relationship to the Maslamani Group. Moreover, the Respondent has not provided any objective evidence pointing to the claimed association between the Complainant and the Maslamani Group, let alone some entitlement in the latter to register the Complainant's trademark in domain names.

In these circumstances, the Panel is not prepared to accept the Respondent's uncorroborated claim, particularly in light of the Complainant's denial of any association even after the disclosure of the Respondent's name to the Complainant and having regard to the nature of the use being made of the disputed domain names when the Complaint was filed. As a result, the Respondent has not rebutted the prima facie case established by the Complainant.

Accordingly, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain names have been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g. *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd*, WIPO Case No. [D2010-0470](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

The Complainant's trademark is an inventive and distinctive term, apparently being a portmanteau of the words "supermarket" and "economic" (or "economical").

In those circumstances and having regard to the reasonably extensive use of the Complainant's trademark and the complete lack of any obvious connection with either the Respondent's name or any common word descriptive of some good or services, the Panel finds there is a strong inference that the Respondent was aware of the Complainant's trademark when registering the disputed domain names.

It also follows that there is a strong inference that the Respondent registered the disputed domain names to target the Complainant's trademark opportunistically especially having regard to the way in which the disputed domain names are being used.

Such opportunistic targeting and the use for PPC links also constitutes use of the disputed domain names in bad faith.

As the term “supeco” is an invented or coined term and not descriptive, it appears that the Respondent has adopted the disputed domain name because of its trademark significance. In circumstances where the Respondent has not established that he or she has rights or legitimate interests in the disputed domain names, therefore, the Panel finds the Respondent has registered and used them in bad faith.

Accordingly, the Complainant has established all three requirements under 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 <supeco.info>, <supeco.online>, and <supeco.site> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: March 17, 2024