

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Heroux Marcel  
Case No. D2024-0227

### **1. The Parties**

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

The Respondent is Heroux Marcel, Ghana.

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

The disputed domain name <carrefourelectro.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2024. On January 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 20, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 22, 2024. In accordance with the Rules, paragraph 5, the due date for submitting a Response was February 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 12, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on February 14, 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 a public limited company registered in the trade and companies register of Evry (France). It was founded in 1959. It is a pioneer of the hypermarket concept since 1963. It operates stores in more than 30 countries worldwide. It is listed on the index of the Euronext Paris Stock Exchange and is a Premium Partner of the Paris 2024 Olympic Games.

The Complainant owns, among others, the following trademark registrations:

Trademark	No. Registration	Jurisdiction	Date of Registration
<b>CARREFOUR</b>	191353	Benelux Office for Intellectual Property, Spain, Italy	March 09, 1956
<b>CARREFOUR</b>	351147	Benelux Office for Intellectual Property, Italy, Monaco, Spain	October 02, 1968
<b>CARREFOUR</b>	353849	Benelux Office for Intellectual Property, Croatia, Czech Republic, Estonia, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Monaco, Montenegro, Morocco, North Macedonia, San Marino, Serbia, Slovakia, Slovenia, Spain	February 28, 1969

The Complainant is the owner of numerous domain names, such as <carrefour.eu>, <carrefour.fr>, <carrefoursa.be>, <carrefour.es>, and <carrefour.it>.

The disputed domain name <carrefourelectro.com>, was registered on December 21, 2023, and it resolves to a website that operates an online store that purportedly offers electronic appliances.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

That it operates thousands of stores in more than 30 countries worldwide, has more than 384,000 employees, and receives around 1.3 million daily visitors in its webstores.

That the fame and notoriety of its CARREFOUR trademark are also evidenced on the Complainant's social media pages, which are "liked" or "followed" by a million users.

##### I. Identical or Confusingly Similar

That the disputed domain name is confusingly similar to the Complainant's trademark CARREFOUR.

That the disputed domain name incorporates the CARREFOUR trademark, with the addition of the word "electro", which is not sufficient to avoid confusing similarity, and which could reinforce the idea that the disputed domain name could be under the control of the Complainant.

## **II. Rights or Legitimate Interests**

That the Respondent incorporates the Complainant's trademarks in the disputed domain name without any license or authorization from the Complainant.

That the disputed domain name relates to a non-authorized merchant site.

That the Respondent chose not to opt to secure the disputed domain name with the DNSSEC technology (DNSSEC unsigned) which shows that the Respondent: i) has no genuine intention of using the disputed domain name in good faith; and ii) does not pay attention to the security of Internet users.

That the Respondent is not commonly known by the disputed domain name.

That, considering the reputation of the Complainant's trademark, any legitimate use of the disputed domain name is inconceivable.

## **III. Registered or Used in Bad Faith**

That, considering that the Complainant's trademarks are well known, it is not plausible that the Respondent was not aware of said trademarks when registering the disputed domain name.

That, given the distinctiveness and the reputation of the Complainant's trademarks, the Respondent undoubtedly had the Complainant's business identifiers in mind when registering the disputed domain name.

That the Respondent's choice of the disputed domain name could not have been accidental and must have been influenced by the fame of the Complainant and its trademarks.

That previous panels appointed under the UDRP have established that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a strong presumption of bad faith.

That the Respondent chose the disputed domain name in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the disputed domain name.

That the Respondent is using the disputed domain name in bad faith since it resolves to an unauthorized merchant site with the purpose of either selling products or collecting data from visitors. That either way, said use of the disputed domain name cannot be legitimate.

That by attempting to attract visitors to extract money or data from them by misusing the Complainant's trademark, the Respondent is making bad faith use of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Given the Respondent's failure to submit a formal response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

## **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 the 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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms such as "electro" may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

Based on the available record, 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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any authorization to the Respondent to use its trademark CARREFOUR, and that the Respondent has not been commonly known by the disputed domain name (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)).

Further, the disputed domain name resolves to a website that operates an online store that purportedly offers electronic appliances and displays the Complainant's trademark. Therefore, and considering that the disputed domain name entirely incorporates the Complainant's trademark CARREFOUR, plus the term "electro", the Panel notes that the composition of the disputed domain name carries a risk of implied affiliation, since Internet users may think that the website to which the disputed domain name resolves belongs to the Complainant, or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)).

The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Based on the available record, 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.

In the present case, the Panel notes that the Complainant and its trademark CARREFOUR are well known. The Complainant conducts business through hundreds of stores and owns several trademark registrations in different jurisdictions. Based on these facts, it is reasonable to conclude that the Respondent knew or should have known the Complainant and its trademark CARREFOUR at the time of registration of the disputed domain name, which under the circumstances of this case constitutes bad faith registration under the Policy (see section 3.2.2 of the [WIPO Overview 3.0](#)).

The fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's well-known trademark CARREFOUR shows that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#)).

Previous panels appointed under the UDRP have found that the mere registration of a domain name that is identical or confusingly similar to a 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](#)). This is so in the present case, given the well-known nature of the CARREFOUR trademark.

The evidence submitted by the Complainant also shows that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating the impression among Internet users that said website is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, impersonation/passing off, or other types of fraud) constitutes bad faith. (See the Panel's determination on impersonation in the analysis of the second factor of the Policy, *supra*) [WIPO Overview 3.0](#), section 3.4.

Based on the available record, the Panel finds the third element of the Policy has been established.

### 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, <carrefourelectro.com>, be transferred to the Complainant.

*Kiyoshi Tsuru*

**Kiyoshi Tsuru**

Sole Panelist

Date: February 28, 2024