

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Carrefour Supermercado, My Store and Alisson Nunes
Case No. D2024-1052

1. The Parties

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

The Respondents are Carrefour Supermercado, My Store, Brazil, and Alisson Nunes, Brazil.

2. The Domain Names and Registrars

The disputed domain name <carrefourloja.com> is registered with Tucows Inc. (the “Registrar”). The disputed domain name <carrefourofertas.shop> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2024. On March 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <carrefourloja.com>. On March 11, 2024, the Registrar Tucows Inc. transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <carrefourloja.com> which differed from the named Respondent (Contact Privacy Inc. Customer 0169999042) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 12, 2024, 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 March 18, 2024, requesting the addition of the disputed domain name <carrefourofertas.shop> with consolidation arguments. On March 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <carrefourofertas.shop>. On March 19, 2024, the Registrar Hostinger Operations, UAB transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <carrefourofertas.shop> which differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the amended Complaint.

The Center sent an email communication to the Complainant on March 19, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity

and/or that both disputed domain names are under common control. The Complainant filed an amended Complaint on March 20, 2024.

The Center verified that the Complaint together with the amended Complaints 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 Respondents of the Complaint, and the proceedings commenced on March 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondent's default on April 16, 2024.

The Center appointed Daniel Kraus as the sole panelist in this matter on April 30, 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

According to information in the Complaint, the Complainant is a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1963. With a revenue of 82 billion euros in 2021, the Complainant is listed on the index of the Paris Stock Exchange. 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 is also a premium partner of the 2024 Olympic Games in Paris.

The Complainant is the holder of a number of trademarks for CARREFOUR, including the International trademark CARREFOUR No. 191353, registered on March 9, 1956, duly renewed and designating goods in class 3, the International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods and services in international classes 1 to 34, and the International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42.

Beside many other domain names including the trademark CARREFOUR, the Complainant has registered the domain name <carrefour.com> since October 25, 1995, that it uses as its official website.

The disputed domain names were both registered in January 2024, respectively on January 8 for the disputed domain name <carrefourfertashop>, and January 24 for the disputed domain name <carrefourloja.com>. None of them are being used in connection with an active website.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain names are confusingly similar to its earlier well-known CARREFOUR trademark, which is entirely incorporated in the disputed domain names. The addition of generic terms "loja", and "ofertas" to a trademark in a domain name does nothing to diminish the likelihood of confusion arising from that domain name. Besides, the addition of generic Top-Level Domains ("gTLDs") such as ".com" or ".shop" must be disregarded. In fact, the gTLD ".shop" might even reinforce the risk of confusion, given the field of activity of the Complainant which is precisely retail.

As regards the second element, the Complainant argues that the Respondents have acquired no trademark in the term “carrefour” (or terms similar thereto) which could have granted the Respondents with rights in the disputed domain names. There is no evidence that the Respondents have been commonly known by the disputed domain names as an individual, business, or other organization. Moreover, the Complainant has not authorized the use of its earlier trademarks or terms similar thereto in the disputed domain names in any manner or form. The Respondents have not, before the Complaint, used or made preparations to use the disputed domain names in relation to a bona fide offering of goods or services. The disputed domain names are not associated with any active website and therefore raise concerns about potential misuse or the intent to attract, for commercial gain, Internet users to the websites by creating a likelihood of confusion. There is no evidence that the Respondents have been making a legitimate noncommercial or fair use of the disputed domain names.

With respect to the third element, the Complainant submits that it and its trademarks were so widely well-known, that it is inconceivable that the Respondents ignored the Complainant or its earlier rights. The Complainant submits that it is highly likely that the Respondents chose to register the disputed domain names because of their identity with or similarity to a trademark in which the Complainant has rights and legitimate interests. Also, given to the Complainant’s trademark widespread recognition, the Respondents’ intention when acquiring the disputed domain names was to exploit the trademark’s reputation.

The Complainant finally contends that the Respondent does not make any apparent use of the disputed domain names, and that the absence of active utilization of the disputed domain names does not preclude a determination of bad faith. Firstly, under the principles of the UDRP and established UDRP jurisprudence, it is clear that the prominence of the CARREFOUR trademarks is such that their unauthorized use by others is highly questionable and often indicative of bad faith. This is particularly true according to the Complainant, as, firstly, the CARREFOUR trademark enjoys widespread recognition and is associated with a significant reputation in the market. The likelihood of any legitimate, non-infringing use of such a well-known mark by an unaffiliated party is minimal, suggesting that the primary intention behind the registrations could be to exploit the trademark’s reputation. Secondly, the actions of the Respondent suggest a deliberate attempt to mislead and impersonate the Complainant. This is evidenced by the Whois data for the first disputed domain name, which lists the registrant as “Carrefour Supermercado, My Store”, directly invoking the Complainant’s name and business type to create an illusion of an official connection. Additionally, the use of the email address “[...]@carrefourofertis.shop” for registering the other disputed domain name, <carrefourloja.com>, further demonstrates the Respondent’s intention to create a false association with the Complainant, leveraging its reputation for potentially deceptive purposes. Thirdly, the Respondents’ decision to obscure their identity while registering the disputed domain names incorporating a renowned trademark such as CARREFOUR, raises significant concerns regarding their intentions. In the context of UDRP proceedings, the act of hiding one’s identity, especially when coupled with the registration of domain names that clearly relate to a well-known trademark, is often interpreted as an indication of bad faith. This behavior aligns with a pattern recognized in UDRP decisions, where anonymity or the use of false information by a registrant, particularly in conjunction with other factors such as trademark imitation, is viewed as an attempt to evade accountability and potential legal action, reinforcing the presumption of bad faith registration and use.

B. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different disputed domain names registrants. The Complainant alleges that the disputed domain names registrants however have a potential commonality or

that there has been a coordinated effort between the disputed domain names, making case consolidation a consideration for efficiency and fairness in the proceedings pursuant to paragraph 10(e) of the Rules.

The disputed domain names 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 Panel notes that both disputed domain names were registered in January 2024; that Whois records publicly show concealed identities; that both Whois records show postal addresses in Brazil; that both disputed domain names are currently inactive; that each disputed domain name directly references the CARREFOUR trademark, indicating targeted use; that the disputed domain names exhibit a consistent format, incorporating the CARREFOUR trademark followed by a term related to commerce, specifically "loja" (store) and "ofertas" (offers); that the disputed domain names integrate Portuguese terms, "loja" and "ofertas," aligning with the language's lexical properties; that the Respondent associated with the first disputed domain name, <carrefourloja.com>, has provided an email address that directly links to the second disputed domain name, suggesting a common control or affiliation.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain names registrants (referred to below as the "Respondent") in a single proceeding.

6.2. Substantive matters

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names, and (iii) the disputed domain names have been registered and are 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 the Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The 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 Panel finds that the mark CARREFOUR is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms "loja" and "ofertas" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a gTLD, in this case “.com” and “.shop”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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.

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.

The disputed domain names resolve to inactive websites, which, under the circumstances of the case, do not give rise to a right or legitimate interest in the disputed domain names.

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.

In this case, according to the unrebutted assertions of the Complainant, its CARREFOUR trademark was widely used in commerce well before the registration of the disputed domain names: few of the Complainant’s trademarks date back to 1968, some 56 years before the registration of the disputed domain names, and the Complainant has registered the domain name <carrefour.com> that resolves to its main website since 1995. The reputation of the Complainant’s trademarks is clearly established. The disputed domain names are confusingly similar to the Complainant’s trademarks. Under these circumstances, the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the confusingly similar disputed domain names.

As regards the use in bad faith, the disputed domain names do not resolve to active websites. 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. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith 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 the reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

In the circumstances of the case, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The Panel finds that the 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 names <carrefourloja.com> and <carrefourofertas.shop> be transferred to the Complainant.

/Daniel Kraus/

Daniel Kraus

Sole Panelist

Date: May 14, 2024