

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. ARNAUD FLORIAN SOHKAMTE KINGNI, Illimito
Case No. D2024-1294

1. The Parties

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

The Respondent is ARNAUD FLORIAN SOHKAMTE KINGNI, Illimito, Cameroon.

2. The Domain Name and Registrar

The disputed domain name <carrefourmarket.online> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 26, 2024. On March 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 27, 2024, 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 (Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 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 April 4, 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 April 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2024. The Respondent sent two emails to the Center dated April 6 and April 21, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on May 8, 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 company registered in France. It is a retailer of consumer goods via supermarkets and other sales outlets.

The Complainant is the owner of a significant portfolio of trademark registrations in various territories which comprise or include the mark CARREFOUR. Those registrations include:

- International trademark registration number 351147 for a figurative mark CARREFOUR, registered on October 2, 1968 in numerous International Classes and designating France, the Benelux Office for Intellectual Property, Spain, Italy and Monaco; and

- International trademark registration number 1034794 for a figurative mark comprising the words CARREFOUR MARKET and a device, registered on April 7, 2022 and designating Mongolia.

The Complainant operates a website at “www.carrefour.com” and is also the registrant of the domain name <www.carrefourmarket.com>.

The disputed domain name was registered on February 6, 2024.

The disputed domain name does not appear to have resolved to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it is a leading global retailer, with over 321,000 employees and 12,225 stores in over 30 countries. Of these, it states that over 1,020 stores operate as CARREFOUR MARKET. The Complainant claims annual revenues of over USD 80 billion, over half of which it states is generated outside France. It exhibits evidence of international media and industry recognition and of a substantial social media presence, including more than 11 million Facebook followers.

The Complainant submits that the disputed domain name is identical or confusingly similar to its trademark CARREFOUR and identical to its trademark CARREFOUR MARKET. It contends that the generic Top-Level Domain (“.gTLD”) “.online” is typically to be ignored for the purposes of comparison and that, in any event, that term commonly designates e-commerce activities, in which the Complainant itself is active.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its CARREFOUR or CARREFOUR MARKET trademarks, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name. It contends that the disputed domain name is inherently misleading, and that there is no plausible use of the disputed domain name by the Respondent that could amount to legitimate use.

The Complainant submits that the disputed domain name was registered and has been used in bad faith. It contends that its CARREFOUR and CARREFOUR MARKET trademarks are so widely known that the Respondent must have been aware of them when registering the disputed domain name, and that there is a presumption of bad faith surrounding that registration. The Complainant submits that the Respondent most likely registered the disputed domain name with the intention that Internet users searching for the Complainant's products and services would in fact arrive at the disputed domain name. The Complainant submits that the “passive” holding by the respondent of the disputed domain name does not prevent a finding of bad faith in the circumstances, and that, in any event, such holding prevents the Complainant from reflecting its trademarks in the corresponding domain name.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

In the absence of any formal Response, the Panel will treat the Respondent's emails dated April 6 and April 21, 2024 as constituting its reply to the Complainant's contentions.

The Respondent states that he is only a web and mobile developer. He states that he has "been accused of Phishing and Scam" (although the Panel sees no such accusations in the Complainant). The Respondent raises questions about a website that he states was "under construction" at the disputed domain name, although he exhibits no evidence in that regard. He asks in particular whether there was a functional payment method on that website; whether "the items on the shelves" were reasonable priced; whether his company "Illimito" was not properly identified on the website; and whether his real contact details differ from those under which the disputed domain name was registered. However, in the absence of any evidence of the website in question, the Panel can form no view on the majority of these matters.

The Respondent exhibits a number of documents relating to his identity, the incorporation of his company "Illimito" in Cameroon in April 2019 and that company's authorization to trade. None of these documents make any reference to the disputed domain name, the trademarks CARREFOUR or CARREFOUR MARKET, or the website referred to by the Respondent.

The Respondent makes observations concerning global inequality and contends that the Complainant is seeking to demonstrate its "superiority."

The Respondent submits as follows:

"In the end, what interests me the most in this matter is being informed that Carrefour has more than 1020 stores in France. So, since initially I was setting up an e-commerce platform project with Android and iOS applications (Customers app, Delivery app and Stores app) to offer Carrefour Market Cameroon for 6,500,000 FCFA (six million five hundred thousand CFA francs), from now on if it is necessary to include Carrefour stores from the rest of the world, including the 1020 stores in France, this will have to cost them 39,000,000 FCFA (thirty-nine million CFA francs)."

The Respondent concludes:

"I remain at your disposal for any arrangement."

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights for the figurative trademarks CARREFOUR and CARREFOUR MARKET. The disputed domain name wholly incorporates the term CARREFOUR and is identical to the textual element of the Complainant's trademark

CARREFOUR MARKET. The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark or trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file any submissions, or evidence in support thereof, that might constitute evidence of rights or legitimate interests in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel finds on balance, moreover, that the Respondent registered the disputed domain name in order to target the Complainant's trademark rights (see below) which cannot give rise to rights or legitimate interests on the Respondent's part.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant's trademarks CARREFOUR and CARREFOUR MARKET to be distinctive in nature and to have become widely associated, on an international basis, with the Complainant's products and services. The Respondent having offered no (comprehensible) explanation for his registration of the disputed domain name other than to refer to the Complainant's trademark, the Panel concludes that that the Respondent is likely to have registered the disputed domain name with the Complainant's trademark in mind.

The Panel accepts the Complainant's submission that the disputed domain name is inherently misleading, as inevitably suggesting to Internet users that it must be owned or authorized by, or otherwise commercially affiliated with, the Complainant. The Respondent having offered no relevant explanation, the Panel can only infer that he registered the disputed domain name in order to take unfair commercial advantage of confusion caused to Internet users by the nature of the disputed domain name. In the view of the Panel, the disputed domain name therefore constitutes a bad-faith registration, whether or not it has been used to date to resolve to any active website.

While the Panel does not fully comprehend the Respondent's submissions in reply to the Complaint, his comments which appear to refer to the Complainant's stores do nothing to dispel the impression of bad faith registration of the disputed domain name. Moreover, the Respondent's statement that he remains disposed to "any arrangement" is further suggestive of an intention to benefit unfairly from the registration of the disputed domain name.

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

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 <carrefourmarket.online> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: May 20, 2024