

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Pedro Rico
Case No. D2024-1809

1. The Parties

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

The Respondent is Pedro Rico, Germany.

2. The Domain Name and Registrar

The disputed domain name <carrefour-market.icu> 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 April 30, 2024. On April 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 2, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 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 May 6, 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 May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 29, 2024.

The Center appointed Christian Pirker as the sole panelist in this matter on June 7, 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 Carrefour SA is a French Company active in retail throughout the world. The Complainant operates more than twelve thousand stores in numerous countries and attracts daily visitors to its webstores.

The Complainant owns numerous registered trademarks for CARREFOUR including:

- European Union trademark registration for CARREFOUR, No. 005178371 registered on August 30, 2007, in classes 9, 35, 38.
- International Trademark Registration CARREFOUR No. 351147, filed on October 2, 1968, registered on October 2, 1968 in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34;
- International Trademark Registration CARREFOUR No. 353849, filed on February 28, 1969, registered on February 8, 1969, in classes 35, 36, 37, 38, 39, 40, 41 and 42.

The Complainant owns and runs also numerous domain names comprising its trademark, such as the domain name <carrefour.com>, registered on October 25, 1995, <carrefour.net>, registered on June 18, 2001, <carrefour.fr>, registered on June 23, 2005 and <carrefour.eu>, registered on March 10, 2006.

The Respondent is reportedly located in Germany.

The disputed domain name <carrefour-market.icu> was registered on April 8, 2024, and at the time of filing the Complaint, it resolved to the Registrar's standard parking page.

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.

The Complainant alleges that it is a well-know trademark and a worldwide leader in retail with over 321'000 employees throughout the world and a pioneer of the concept of hypermarkets back in 1963, that it operates more than twelve thousand stores in more than 30 countries and attracts 1.3 million daily unique visitors to its webstores, owns numerous social media pages, such as Facebook France, Facebook Brazil and Facebook Spain, which are each "followed" by at least eleven million users.

The Complainant considers the disputed domain name to be confusingly similar to its trademarks for which it claims to have rights. The Complainant further alleges that the Respondent has no right or legitimate interest in the disputed domain name, that, the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name and that the Respondent has no affiliation with the Complainant. Finally, the Complainant alleges that the Respondent registered and is using the disputed domain name in bad faith, in particular with the intentional addition of the term "market" in the domain name which attempt to create confusion and benefit from the similarity to the well-known CARREFOUR trademark.

B. Respondent

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

6. Discussion and Findings

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 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.

Although the addition of a hyphen and another term here, "-market" 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.

Finally, it is standard practice to disregard the Top-Level Domain ("TLD") suffix under the confusing similarity test, except where the applicable TLD suffix may itself form part of the relevant trademark, which is not the case in the present matter. See [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant has therefore satisfied paragraph 4(a)(i) of the Policy.

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 name. 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 name 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.

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.

Based on the evidence submitted by the Complainant, the Panel accepts that the trademark CARREFOUR is prima facie well-known, such finding remains in view of the absence of a Response (see *Birkenstock Orthopädie GmbH & Co. KG v. Chen Yanbing*, WIPO Case No. [D2010-0746](#)).

It is a well-established principle that registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a well-known trademark by any entity that does not have a relationship with that trademark or its owner can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#) section 3.1.4).

Accordingly, the Panel considers that the Respondent registered the disputed domain name with full knowledge of the Complainant's well-known trademark, particularly considering the reputation of the Complainant's mark and since the trademark is included in its entirety supplemented by the generic term "market".

The Panel finds that the Respondent registered the disputed domain name in bad faith.

The Panel notes that the disputed domain name directs to the Registrar's standard parking page, which in this Panel's opinion is comparable to passive holding. 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. Having reviewed the available record, the Panel finds the non-use of the disputed domain name 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, the composition of the disputed domain name, the Respondent's failure to take part in the present proceeding and the use of a privacy service to conceal its identity (moreover not giving accurate information about itself since the Written Notice was not able to be delivered to Respondent) and 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 therefore finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied paragraph 4(a)(iii) 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 <carrefour-market.icu> be transferred to the Complainant.

/Christian Pirker/

Christian Pirker

Sole Panelist

Date: June 21, 2024