

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Esther Stucky  
Case No. D2024-2616

### **1. The Parties**

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

The Respondent is Esther Stucky, United States of America (“United States”).

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

The disputed domain name <services-carrefour.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 June 28, 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 July 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 23, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on August 9, 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 operates in the retail business since 1968, with more than 12,000 stores in over 30 countries, having had a turnaround of EUR 83 billion in 2022. The Complainant additionally offers travel, banking, insurance, and ticketing services.

The Complainant is the owner of several trademark registrations for CARREFOUR:

- International Trademark Registration No. 351147, in classes 1 to 34, registered on October 2, 1968 and successively renewed;
- International Trademark Registration No. 353849, in classes 35 to 42, registered on February 28, 1969 and successively renewed;
- United States Registration No. 6763415, in class 35, registered on June 21, 2022.

The disputed domain name was registered on June 11, 2024. Presently, when attempting to access the website that resolves from the disputed domain name, Internet browsers display fraud alert risks, stating that the website has been reported as unsafe.

#### **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 asserts that its CARREFOUR trademark enjoys a worldwide reputation, as past UDRP panels have already considered it to be well-known.

The Complainant submits that the disputed domain name reproduces entirely the Complainant's CARREFOUR trademark with the addition of the generic term "services" and a hyphen, what is not sufficient to avoid a finding of confusing similarity under the Policy.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- i. the Respondent has no prior rights or legitimate interests in the CARREFOUR trademark;
- ii. the Respondent is not commonly known by the disputed domain name;
- iii. the Respondent was not authorized by the Complainant to use or register its trademark as a domain name or in any manner or form; and
- iv. the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services given that the disputed domain name is potentially being used in connection with a webpage containing potentially harmful material or used for fraudulent purposes.

Furthermore, the Complainant submits that its trademark is so widely well known that it is inconceivable that the Respondent could have ignored the Complainant and its trademark rights. Quite to the contrary, the Complainant sustains that in view of the importance of its trademark the Respondent has registered the disputed domain name seeking to unfairly capitalize on the goodwill and fame of the Complainant's trademark by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of its website, making Internet users believe that the website is associated, endorsed or recommended by the Complainant, which is not true.

As to the use of the disputed domain name in bad faith, its use in connection with a website containing potentially harmful material or used for fraudulent purposes (such as phishing) cannot be regarded as a good faith use under the Policy.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

### **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.

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 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 other terms ("services" and a hyphen) 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 name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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.

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.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the composition of the disputed domain name reproducing the Complainant’s well-known trademark and tradename (previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4);
- b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name; and
- c) as the evidence indicates, the risk of misuse of the disputed domain name, e.g. in connection with a webpage containing potentially harmful material or used for fraudulent purposes.

The Panel further notes that, behind the Internet browser fraud alert, the disputed domain name does not resolve to an active website. In the circumstances of this case, the Panel finds the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds that the Complainant has established the third element of 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 name <services-carrefour.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: August 23, 2024