

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Aurora Rosangela Alessandra Freitas
Case No. D2024-2802

1. The Parties

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

The Respondent is Aurora Rosangela Alessandra Freitas, Brazil.

2. The Domain Name and Registrar

The disputed domain name <carefour-oficial.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 July 10, 2024. On July 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 July 14, 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 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on September 2, 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 based in France. Founded in 1959, the Complainant is a worldwide leader in retail. The Complainant operates at present more than twelve thousand stores in over 30 countries. It was furthermore a Premium Partner of the Paris 2024 Olympic Games.

The Complainant owns numerous registered trademarks incorporating the term “CARREFOUR”. In particular, the Complainant owns the following trademark registrations:

- European Union trademark registration for CARREFOUR no. 005178371 registered on August 30, 2007, in classes 9, 35 and 38;
- International trademark registration for CARREFOUR no. 351147, registered on October 2, 1968, in classes 1-34;
- International trademark registration for CARREFOUR no. 353849, registered on February 28, 1969, in classes 35-42;
- Brazilian trademark registration for CARREFOUR no. 830532692, registered on December 26, 2012, in class 35.

The Complainant owns domain names including the term “CARREFOUR”, among which are <carrefour.com> (registered on October 25, 1995), <carrefour.fr> (registered on June 23, 2005), and <carrefour.com.br> (registered on January 18, 1997).

The disputed domain name was registered on May 30, 2024.

The disputed domain name is not connected to an active website. It used to lead to a default page of the Registrar.

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 that the first part of the disputed domain name, i.e. “carefour”, is confusingly similar to its well-known trademark CARREFOUR, and that the additional term “oficial” (meaning “official”) does not sufficiently distinguish the disputed domain name from the Complainant’s trademark but instead enhances confusion by suggesting endorsement by the Complainant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent has not received any license or authorization from the Complainant to use any domain name featuring its mark; (ii) the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services; (iii) the Respondent is not commonly known by the disputed domain name or any variant thereof; and (iv) the disputed domain name carries a risk of implied affiliation with the Complainant, and in that respect the use of the term “oficial” meaning “official” increases the potential for deception.

Finally, the Complainant submits that the disputed domain name has been registered and used in bad faith. Given the global recognition and long-standing use of the CARREFOUR trademark in commerce, it is highly implausible in the Complainant's view that the Respondent was unaware of the Complainant's rights in the trademark CARREROUR at the time of registering the disputed domain name. Furthermore, according to the Complainant, the use of a privacy service by the Respondent to hide their identity is a factor considered by UDRP panels as indicative of bad faith, particularly when combined with other elements such as the lack of a legitimate interest and the fame of the complainant's trademark. The Complainant contends that in the present case, the passive holding of the disputed domain name amounts to use in bad faith, when considering the Complainant's trademark's distinctiveness, the Respondent's lack of legitimate interests, and the implausibility of any good faith use. The Complainant adds that by holding a domain name that closely resembles the Complainant's trademarks, the Respondent disrupts the Complainant's business, since customers seeking the Complainant's services might be misled or frustrated by the default page, which is likely to damage the Complainant's reputation.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 domain name; and
- (iii) the domain name registered by the respondent has been registered and is 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 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 Panel finds the mark is recognizable 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.

Indeed, the first and dominant element of the disputed domain name, namely "carefour", differs from the Complainant's trademark CARREFOUR only in its spelling with one "r" instead of two, which amounts to a misspelling of the Complainant's mark. A domain name which consists of a common, obvious, or intentional misspelling of a trademark (i.e. typosquatting) is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms, here "oficial", 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.

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.

Notably, the Respondent has not submitted any evidence showing or suggesting any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. The Respondent has not demonstrated that that she is commonly known under the disputed domain name, or that she has made a legitimate noncommercial fair use of the disputed domain name. In this regard, the choice of the generic Top-Level Domain(“gTLD”) “.shop” would hardly be consistent with a non-commercial use.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

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 the present case, the Panel notes that it is highly probable that the Respondent was aware of the Complainant’s trademarks at the time it registered the disputed domain name, given the distinctive nature of such mark and its reputation, including in Brazil where the Respondent supposedly has an address, and given the composition of the disputed domain name, which constitutes typosquatting. The gTLD “.shop” reinforces the Panel’s conviction that the Respondent had the Complainant’s mark in mind when she registered the disputed domain name. Consequently, it is justified to admit that the disputed domain name was registered in bad faith.

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. While 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, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, 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.

Indeed, as mentioned above, the Panel considers it unlikely, given the distinctive nature of the Complainant’s trademark, that the Respondent chose the disputed domain name by chance. On the contrary, it is likely that the Respondent deliberately intended to refer to the Complainant’s trademark. The Respondent does not appear to have used the disputed domain name and has offered no explanation as to its intended use or the reasons for its registration. As the disputed domain name reproduces the Complainant’s trademark almost identically, the Panel finds it difficult to imagine any bona fide use of the disputed domain name by the Respondent. The term “oficial” (meaning “official”) gives rise to concerns that the disputed domain name may be used with a view to impersonate the Complainant.

Finally, the Panel observes that the Respondent provided inaccurate or incomplete contact details in the Whois information, as the Written Notice of the Complaint could not be delivered by courier due to insufficient consignee information.

In view of the above, 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 <carefour-official.shop> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: September 16, 2024