

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Patrick Notiella
Case No. D2024-2872

1. The Parties

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

The Respondent is Patrick Notiella, France.

2. The Domain Name and Registrar

The disputed domain name <carrefour-auxerre.com> is registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 15, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 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 July 16, 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 17, 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 August 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 26, 2024.

The Center appointed Elise Dufour as the sole panelist in this matter on August 29, 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 Carrefour, a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968. With a turnaround of EUR 76 billion in 2018, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40).

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 without a doubt a major and well-known worldwide leader in retail. The Complainant additionally offers travel, banking, insurance or ticketing services.

To that effect, the Complainant owns several hundred trademark rights worldwide in the CARREFOUR term.

In particular, the Complainant is the owner of the following trademarks registered before the registration of the disputed domain name and notably:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 01 to 34; and
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42.

The Complainant is also the owner of numerous domain names comprising, CARREFOUR Trademarks, including the domain name <carrefour.com> registered since 1995.

The above trademarks and domain names were registered prior to the registration of the disputed domain name, which was registered on June 15, 2024.

The Respondent, according to the disclosed Whois information for the disputed domain name, is located in France.

The disputed domain name displays an inactive webpage.

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 disputed domain name is highly similar to his earlier well-known trademarks CARREFOUR. Indeed, the disputed domain name includes the earlier trademark CARREFOUR in attack position, followed by the generic term "auxerre", which is the name of a town in France. For the Complainant, this term reinforces the likelihood of confusion between the disputed domain name and the Complainant and its trademarks. Therefore, the Complainant contends that the disputed domain name is identical or highly similar to the Complainant's earlier trademarks.

Second, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name in connection with a bona fide offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name. The Complainant's trademarks significantly predate the registration of the disputed domain name. Considering all the elements mentioned above, the Respondent should be considered as having no rights or legitimate interests in respect of the domain name that is the subject of the Complaint.

Third, the Complainant additionally argues that the trademark CARREFOUR is widely known, and the Respondent was aware of the Complainant's trademark, indicating bad faith registration. The Complainant

thus states that the Respondent acquired and is using the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's earlier marks. In addition, the Complainant stresses that its CARREFOUR trademark registrations significantly predate the registration date of the disputed domain name. Finally, for the Complainant, the current use of the disputed domain name may not be considered a good faith use.

Therefore, the Complainant alleges that the registration and use of the disputed domain name was, and currently is, in bad faith.

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 Panel finds that 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 entirety of the mark CARREFOUR is reproduced within the disputed domain name.

Although the addition of other terms here "auxerre", which is the name of a town in France 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.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademarks.

Moreover, there is no element from which the Panel could infer a Respondent's right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.2.

Also, there is no evidence of use of the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to profit from the goodwill of the Complainant's trademarks. Paragraph 4(c)(iii) of the Policy and [WIPO Overview 3.0](#), section 2.4.

Indeed, the disputed domain name, being pointed to an inactive page, is passively held. In view of the Respondent's default and given the substantial reputation and goodwill of the Complainant's trademark, the Panel considers that, absent some contrary evidence from a respondent, passive holding of a domain name does not constitute legitimate noncommercial or fair use.

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.

In the present case, the Panel observes that the Complainant's well-known CARREFOUR trademarks substantially predate the Respondent's registration of the disputed domain name. Therefore, the Panel infers that the Respondent knew or should have known of the Complainant's trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainant's widely known trademarks by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, the disputed domain name is inactive and unconnected with any bona fide supply of services by the Respondent. Previous UDRP 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.

The Panel finds that passive holding of the disputed domain name does not, in the circumstances of this case, prevent a finding of bad faith, given: (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 implausibility of any good faith use to which the domain name may be put.

In the absence of any evidence to contend against the Complainant's evidence and claims, this Panel accepts the Complainant's evidence and finds that the Respondent has registered and used the disputed domain name, without the Complainant's consent or authorization, for the likely purpose of capitalizing on the reputation of the Complainant's trademarks to target the Complainant's rights.

Accordingly, based on the available record, 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 <carrefour-auxerre.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: Septembre 12, 2024