

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Faustin BOCOVO, Carrefour Qualite
Case No. D2024-2877

1. The Parties

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

The Respondent is Faustin BOCOVO, Carrefour Qualite, Benin.

2. The Domain Name and Registrar

The disputed domain name <carrefourqualite.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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 (Contact Privacy Inc) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 18, 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 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 12, 2024. The Respondent did not file a formal Response, but sent email communications on July 23, 2024, August 2, 2024, August 22, 2024, August 26, 2024, and August 29, 2024.

Pursuant to paragraph 6 of the Rules, on August 22, 2024, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Harini Narayanswamy 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 runs a retail chain under the CARREFOUR trademark and has a presence in numerous countries. The Complainant owns several domain names bearing its trademark including the domain name <carrefour.com>, which was registered in 1995.

The registered trademarks owned by the Complainant for the CARREFOUR marks include International registered marks:

- (i) International trademark CARREFOUR No. 351147, registered on October 2, 1968, under classes 01 to 34 for goods.
- (ii) International trademark CARREFOUR No. 353849, registered on February 28, 1969, under classes 35 to 42 for services.

The Respondent registered the disputed domain name on June 16, 2024. The registration record for the disputed domain name mentions the registered owner as Faustin Bocovo under the organization name of "Carrefour Qualite". The disputed domain name resolves to a website that is being used as an online store which offers wellness and cosmetic products. The Respondent's website is in French and the price of the products are quoted in CFA franc currency. According to the registration record, the Respondent is situated in Benin, and the currency used in Benin is the West African CFA franc.

5. Parties' Contentions

A. Complainant

The Complainant contends that it is a leader in the retailing business and its mark has a worldwide reputation. It operates 12,000 stores in 30 countries, with over 348,000 employees and has about 1.3 million daily visitors to its stores with a sales turn-around of about EUR 76 billion in the year 2018. The Complainant claims it is a pioneer in the concept of hypermarkets since 1968. The Complainant states that it offers services such as travel, banking, insurance and ticketing services and is listed on the index of the Paris stock exchange Cotation Assistée en Continu (CAC) 40.

The Complainant contends several UDRP decisions have recognized that its CARREFOUR mark is well known and has cited the cases *Carrefour v. Contact Privacy Inc. Customer 0155401638/ Binya Rteam*, WIPO Case No. [D2019-2895](#) and *Carrefour v. Perfect Privacy, LLC/ Milen Radumilo*, WIPO Case No. [D2019-2610](#) among others. The Complainant further states that it has a strong online presence on the Internet and its Facebook page is liked by more than 11 million people. The Complainant notably contends that due to the well-known reputation of its mark, it is reasonable to infer that the Respondent ought to have known of the mark at the time of registration of the disputed domain name.

The Complainant argues that the disputed domain name is confusingly similar to its mark despite the additional generic term "qualite". The Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name. Although the registration record shows the name of the registered owner is "Carrefour Qualite", the Complainant states that a search conducted in the Benin registry of commerce revealed that no such company was found to exist. As no license or authorization has been granted to the Respondent to use its mark, the Complainant argues the use of the disputed domain name is infringing use and is not bona fide use. The Complainant further argues that its mark is well known due to

prior extensive use, therefore the disputed domain name creates an impression of association with the Complainant, which indicates bad faith registration and use of the disputed domain name.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

The Respondent has sent email communications on July 23, 2024, August 2, 2024, August 22, 2024, August 26, 2024, and on August 29, 2024. The Respondent's email communication on July 23, 2024, confirms the receipt of the email notification sent by the Center.

The Respondent sent an email to the Center on August 2, 2024, and confirmed receipt of the case documents sent through DHL courier. In the same email the Respondent has requested for an amount of EUR 1200 for the disputed domain name.

The Respondent's email of August 22, 2024, states that there should be a negotiation to buy the disputed domain name, as it was purchased by him when it was available. The email is partially reproduced here:

"I have successfully received your mail sent by DHL to my address.

But let me tell you that until now I do not understand what you want.

When I wanted to validate my payment for the domain name on the shopify server, it was beautiful and available to use and not already taken.

Furthermore, I do not understand how I stole another person's intellectual property when the purchase server has notified us of the full availability of this domain name.

For my part, you must move on to a buyback negotiation with me normally because it was available when I bought it.

My Whatsapp and direct call number is"

On August 26, 2024, yet another email was sent by the Respondent to the Center, the contents of which are on similar lines as the earlier email of August 22, 2024. The Respondent did not file any formal response to the Complainant's contentions.

6. Discussion and Findings

The Policy under paragraph 4 (a) requires the Complainant to establish three elements to obtain the remedy of transfer of the disputed domain name under the Policy, these are:

- (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 lacks rights or legitimate interests in the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith by the respondent.

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 provided evidence of its trademark registration for the CARREFOUR mark. Trademark registration is prima facie evidence of rights in a mark. The Complainant is found to have established its rights in respect of a trademark or service mark for the purposes of the Policy by providing evidence of its trademark registration for the CARREFOUR mark. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name reproduces the entire mark along with the additional term “qualite”. As argued by the Complainant, adding the term “qualite”, does not lessen the confusing similarity with its mark. It is a well-established consensus view among UDRP panelists that the addition of other terms does not prevent a finding of confusing similarity between the disputed domain name and the mark. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the addition of the term “qualite” therefore 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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

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 disputed domain name is being used by the Respondent as an online store that offers several products. The Respondent has not demonstrated any legitimate reason for the registration or use of a disputed domain name containing the Complainant’s well-known mark. The Panel finds under the circumstances, that the Respondent has tried to impersonate the Complainant by adopting the Complainant’s well-known mark to run an online store. Impersonating a well-known business and its mark is not a bona fide use neither is it a noncommercial or fair use of the disputed domain name.

The mark, as asserted by the Complainant, has been used extensively for several decades prior to registration of the disputed domain name. It is unlikely that the Respondent registered the disputed domain name without knowledge of the mark. The manner in which the Respondent has used the mark in the disputed domain name and on the website for hosting an online store, indicates the Respondent’s intention to impersonate the Complainant and mislead Internet users.

Unauthorized and dishonest use of the Complainant’s registered trademark in the disputed domain name is not indicative of any rights or legitimate interests in favor of the Respondent. Panels have held that the use of a domain name for illegal activity of impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

For the reasons discussed, 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 provided any relevant submissions or 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 by the Complainant.

C. Registered and Used in Bad Faith

The third element under paragraph 4(a)(iii) of the Policy requires the Complainant to establish the disputed domain name has been registered and used in bad faith by the Respondent. The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy specifies circumstances, in particular, but without limitation, 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 also be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.1.

- (i) Circumstances indicate that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

One of the core objectives of the Policy is to protect customers from deceptive use of trademarks.

Paragraph 4 (b) (iv) of the Policy, clearly states that if a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of the respondent's website, it amounts to bad faith registration and use.

In the present case, the Complaint is based on the Complainant's well-known mark which it has used extensively in several jurisdictions worldwide. The Complainant has also established the reputation and fame associated with its mark which has been recognized in numerous UDRP decisions. Some of the cited cases are: *Carrefour v. Contact Privacy Inc. Customer 0155401638/ Binya Rteam*, WIPO Case No. [D2019-2895](#); *Carrefour v. Perfect Privacy, LLC/ Milen Radumilo*, WIPO Case No. [D2019-2610](#) and *Carrefour v. Contact Privacy Inc. Customer 0152812191/ Milen Radumilo, Milen Radumilo*, WIPO Case No. [D2019-0670](#).

The Panel concurs with the Complainant's submission that the Respondent's use of the disputed domain name to run an online store carries an implied affiliation with the Complainant's well-known mark. The registration and use of the disputed domain name shows the Respondent's intent to benefit from the reputation associated with the mark.

The Respondent in his email communication of August 2, 2024 has requested for an amount of EUR1200 for the disputed domain name containing the Complainant's well-known mark. Again, in the email

communication of August 22, 2024, the Respondent has indicated similar intent of selling the disputed domain name to the owner of the trademark. A respondent who intends to sell a disputed domain name containing a well-known mark to the owner of the trademark is classic cybersquatting. It has been consistently found by UDRP panels that registration of a confusingly similar domain name to a widely known or reputed trademark by someone who is not affiliated with the owner of the trademark and has not shown good reason for registration of the disputed domain name or its legitimate use, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Panels have held that the use of a domain name for illegal activity of impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent has used the disputed domain name in a manner as described under paragraph 4 (b) (iv) of the Policy. The Panel concludes that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds for the reasons discussed, that the Complainant has established the third element of the Policy that the disputed domain name has been registered in bad faith and is being used in bad faith.

The Complainant has satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

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 <carrefourqualite.com> be transferred to the Complainant.

/Harini Narayanswamy/

Harini Narayanswamy

Sole Panelist

Date: September 13, 2024