

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. rosely sabongi
Case No. D2024-2925

1. The Parties

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

The Respondent is rosely sabongi, Brazil.

2. The Domain Name and Registrar

The disputed domain name <carrefourcartoes.com> is registered with Wix.com Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 17, 2024. On July 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 22, 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 23, 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 26, 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 20, 2024.

The Center appointed Alfred Meijboom as the sole panelist in this matter on August 27, 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 worldwide leader in retail with a turnover of EUR 76 billion in 2018, which operates more than 12,000 stores in more than 30 countries worldwide, employing over 384,000 employees worldwide and 1.3 million daily unique visitors in its stores. In addition, the Complainant offers travel, banking, insurance, and ticketing services.

The Complainant owns several hundred trademark registrations worldwide for the term CARREFOUR, including:

- International trademark registration with no. 351147 for the word mark CARREFOUR, registered on October 2, 1968, for goods in classes 1 to 34;
- International trademark registration with no. 353849 for the word mark CARREFOUR, registered on February 28, 1969, for services in classes 35 to 42; and
- Brazilian trademark registration with no. 006314740 for the word mark CARREFOUR, registered on May 10, 1976, for pasta, flour and yeast.

The Complainant is also owner of domain names which include the CARREFOUR trademark, including <carrefour.com> which was created in 1995.

The disputed domain name was registered on July 2, 2024. The disputed domain name is inactive and redirects to a website displaying the message “*Looks like this domain isn't connected to a website yet*”.

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 confusingly similar to the Complainant's CARREFOUR trademark because said trademark is well-known and the disputed domain name includes the CARREFOUR trademark with the addition of the generic term “cartoes”, which does nothing to diminish the likelihood of confusion arising from the disputed domain name.

Further, the Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Respondent has not been authorized by the Complainant to use its CARREFOUR trademark, the Respondent is not known by the disputed domain name, has not acquired rights in a corresponding trademark, and the Respondent did not 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, nor did it make any serious preparations to do so.

The Complainant further contends that the Respondent has registered and is using the disputed domain name in bad faith. According to the Complainant, the Respondent has registered the disputed domain name in bad faith because the Complainant's CARREFOUR trademarks, which were registered significantly prior to the registration of the disputed domain name, are so widely known that it is inconceivable that the

Respondent was not aware of the Complainant's earlier rights in its CARREFOUR trademarks. Moreover, the Complainant alleges that the Respondent is also using the disputed domain name in bad faith as it does not resolve to an active website. Additional elements stated by the Complainant in support of this include the fact that the Complainant has a well-known trademark, no Response was filed and the Respondent concealed its identity, from which the Panel may draw inferences about whether the disputed domain name was used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Respondent did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view of UDRP panels is that the respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

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 3.0, section 1.7.

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 CARREFOUR trademark is wholly reproduced within the disputed domain name. Although the addition of other terms, such as in the case of the disputed domain name "cartoes" (Portuguese for "cards"), may bear on assessment of the second and third elements, the Panel finds that the addition of this term to the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the CARREFOUR trademark for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the CARREFOUR trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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.

In the present case, the CARREFOUR trademark was registered in the Respondent's purported country, Brazil, some 50 years before the Respondent registered the disputed domain name and the Panel is satisfied that the CARREFOUR trademark has been intensively used and is therefore well-known, as confirmed by many previous panels (see *Carrefour SA v. Marc Beck*, WIPO Case No. [D2022-2785](#)). Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4. The Panel is therefore satisfied that the Respondent registered the disputed domain name in bad faith.

Further, previous 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant’s CARREFOUR 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.

The Panel finds that the Complainant has also 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 <carrefourcartoes.com> be transferred to the Complainant.

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: September 10, 2024