

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Cygnus Ambitious
Case No. D2024-3036

1. The Parties

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

The Respondent is Cygnus Ambitious, Russian Federation (the).

2. The Domain Name and Registrar

The disputed domain name <carrefour-es.website> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 30, 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 30, 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 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 26, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on September 6, 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 significant player in retail operating in hypermarkets back to 1968. It is the owner, inter alia of the following trademarks:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 1 to 34;
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed, and designating services in international classes 35 to 42; and
- European Union Intellectual Property Office (“EUIPO”) trademark CARREFOUR No. 5178371, registered on August 30, 2007.

In addition, the Complainant is also the owner of numerous domain names identical to, or comprising, its trademark, both within generic and national top-level domains including <carrefour.com> registered since 1995 and <carrefour.fr> since 2005.

The disputed domain name was registered June 28, 2024, and does not point to an active web site, merely an Internet Service Provider (“ISP” holding page).

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 well known trademark, containing it in its entirety and adding a hyphen, the designation “es” and the generic Top-Level-Domain (“gTLD”) website which do not prevent the Complainant’s mark being recognizable in the disputed domain name.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorised the Respondent and the Respondent is not commonly known by the disputed domain name. Pointing the disputed domain name to a holding page is not a bona fide offering of goods or services or a legitimate noncommercial or fair use. The disputed domain name carries a risk of implied affiliation with the Complainant and cannot be put to any conceivable legitimate use. It has been registered in opportunistic bad faith to take advantage of the Complainant’s trademark to mislead Internet users and is being passively held. The Respondent has allegedly given false address and telephone details in the Whois details for the disputed domain name.

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.

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 here, a hyphen and the letters “es” commonly used to designate Spain, may bear on assessment of the second and third elements, the Panel finds the addition of punctuation or “es” 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 addition of a gTLD such as “.website” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Respondent is not authorised by the Complainant or commonly known by the disputed domain name.

Since the disputed domain name has not been used except for a holding page there is no legitimate noncommercial fair use or bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.5.3.

The Complainant’s trademark is well known, and the disputed domain name carries a risk of implied affiliation with the Complainant [WIPO Overview 3.0](#), section 2.5.1.

The Respondent has supplied false contact details to the Registrar which demonstrates a lack of rights or legitimate interests.

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 Panel notes that the Respondent has not used the disputed domain name which points to a holding page.

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.

Panels have found that the non-use of a domain name (including a holding page) 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 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.

Further the Respondent's submission of false address details to the Whois database indicates bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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-es.website> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: September 16, 2024