

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Daniel Dias, Daniel Dias
Case No. D2024-3077

1. The Parties

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

The Respondent is Daniel Dias, Brazil.

2. The Domain Name and Registrar

The disputed domain name <cupom-carrefour.com> (the “Domain Name”) 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 26, 2024. On July 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 5, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 12, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant provides goods and services related to supermarkets, retail stores, food and non-food products. It had a turnaround of EUR 83 billion in 2022. The Complainant operates more than 12,000 stores in more than 30 countries worldwide, having more than 384,000 employees. With regards to Brazil, country where the Respondent is supposedly located, the Complainant has been present since 1975 and can currently count on more than 140 hypermarkets, 50 supermarkets and 140 express convenience stores.

The Complainant owns hundreds of trademark registrations for CARREFOUR in many jurisdictions worldwide, for example International registration no. 351147 (registered on October 2, 1968).

The Complainant has domain name registrations consisting of the CARREFOUR trademark, for example, <carrefour.com>, which has been registered since 1995. The Complainant has online presence via social media platforms. The fame of the Complainant's trademark is evidenced by former UDRP cases.

The Respondent registered the Domain Name on July 16, 2024. At the time of the Complaint, the Domain Name resolved to an error page.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is confusingly similar to the Complainant's trademark, altered only by the additional "cupom-". The addition does not prevent a finding of confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant trademarks predate the registration of the Domain Name, and the burden is on the Respondent to establish the Respondent's rights or legitimate interests in the Domain Name. The Respondent reproduces the Complainant's trademark in the Domain Name without authorization. The Respondent has not been commonly known by the Domain Name. The Respondent has not provided any evidence of bona fide use of, or demonstratable preparations to use, the Domain Name in connection with any legitimate offering of goods or services. The similarity between the Domain Name and the Complainant's trademark, results in a risk of implied affiliation with the Complainant.

The Complainant argues that it is inconceivable that the Respondent ignored the Complainant or its earlier Rights. The Respondent's choice of the Domain Name cannot have been accidental. It must have been influenced by the fame of the Complainant and its earlier trademarks and done to attract Internet users searching for the Complainant's services and products. The current non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding. Due to the long-lasting international relationship of the Complainant and its trademarks, the Complainant cannot think of any future use of the Domain Name that may be done by the Respondent in good faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark CARREFOUR. The Domain Name is Incorporates the Complainant's trademark with the addition of "cupom-". The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 and 1.9.

For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). See [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Name. The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services.

Based on the available record, 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.

The incorporation of the entirety of the Complainant's trademark in the Domain Name and the fame of the Complainant's trademark makes it probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. The Panel finds it likely that the Respondent chose the Domain Name because of its similarity with the Complainant's trademark. The non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3.

Moreover, the mere registration of a domain name that is confusingly similar to a famous or widely known trademark by an unaffiliated entity may by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <cupom-carrefour.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 23, 2024