

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Sebastiana Vieira
Case No. D2024-3198

1. The Parties

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

Respondent is Sebastiana Vieira, Brazil.

2. The Domain Name and Registrar

The disputed domain name <cartoescarrefour.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 August 5, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 13, 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 (DT)/Wix.com Ltd.) and contact information in the Complaint. The Center sent an email communication to Complainant on August 14, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 16, 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 Respondent of the Complaint, and the proceedings commenced on August 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 8, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 9, 2024.

The Center appointed Bradley A. Slutsky as the sole panelist in this matter on September 30, 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

Complainant operates hypermarkets / superstores and has more than 12,000 stores in more than 30 countries. Complainant began operating this business in 1968, and in 2022 generated revenue of more than EUR 83 billion. Complainant is a publicly traded company listed on the index of the Paris Stock Exchange, and has more than 384,000 employees worldwide and more than 1.3 million daily unique visitors in its stores. Complainant also offers travel, banking, insurance, and ticketing services. In Brazil (where, according to the Whois information for the disputed domain name, Respondent is located), Complainant's business has been operating since 1975 and currently has more than 140 hypermarkets / superstores, 50 supermarkets, and 140 express convenience stores. Complainant has hundreds of trademark registrations for CARREFOUR worldwide, including the following:

Mark	Goods/Services	Jurisdiction	Reg. No.	Reg. Date
CARREFOUR	International classes 1 - 34	International	351147	October 2, 1968
CARREFOUR	International classes 35 - 42	International	353849	February 28, 1969
CARREFOUR	International classes 35 and 39	Brazil	006314210	May 10, 1976

Complainant also has several domain names that use its CARREFOUR trademark, both inside and outside of Brazil. These domain names include <carrefour.com>, <carrefour.fr>, <carrefourmarket.fr>, <grupocarrefourbrasil.com.br>, <grupocarrefour.com.br>, and <carrefour.com.br>.

The disputed domain name was registered on July 10, 2024. Attempting to go to "http://www.cartoescarrefour.com" or "http://cartoescarrefour.com" results in a "DNS_PROBE_FINISHED_NXDOMAIN" error – indicating, in this case, that the Domain Name System record for the disputed domain name does not have an address record specifying an IP address for a website for the disputed domain name (i.e., a web browser will not be able to reach a website at the disputed domain name, and will display an error page instead).

The Whois record for the disputed domain name does not contain a street address for Respondent, the remaining portion of the address refers to the city of "Melopolis" in Brazil, which does not appear to be a city in Brazil, uses a zip code that is not associated with Brazil, and uses a phone number that is not associated with the state in Brazil that is in Respondent's Whois record. The Whois record also contains an email address for Respondent, which translates from Portuguese to English as "My Carrefour Cards".

5. Parties' Contentions

A. Complainant

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

Specifically, Complainant contends that its marks are “widely well-known”, including in Brazil, and that the disputed domain name is confusingly similar to Complainant’s CARREFOUR marks in that the disputed domain name incorporates the CARREFOUR mark in its entirety, in combination with “cartoes” (which means “cards” in Portuguese) and the “.com” generic Top-Level Domain (“gTLD”). Complainant also contends that Respondent has no rights or legitimate interests in respect of the disputed domain name, because a search of the WIPO brand database (“<https://branddb.wipo.int/>”) does not reveal any CARREFOUR trademarks owned by Respondent, Respondent allegedly is not commonly known by the disputed domain name, Respondent has no license or authorization from Complainant to use the CARREFOUR mark in the disputed domain name, Respondent allegedly has not used or made preparations to use the disputed domain name “in any manner or form”, the disputed domain name allegedly is inherently likely to mislead Internet users, there is no evidence that Respondent has been making a legitimate noncommercial or fair use of the disputed domain name, the reference in the disputed domain name to “cartoes” is likely to be confused with Complainant’s credit cards (which are offered in Brazil at “<https://www.carrefour.com.br/cartao-carrefour/>”), in light of the “worldwide renown” of the CARREFOUR mark “Complainant sees no plausible use of the [disputed] domain [name] that would be legitimate fair and non-commercial” either currently or in the future, and given Complainant’s extensive use of its mark long before Respondent’s registration of the disputed domain name Respondent would not have rights or legitimate interests in respect of the disputed domain name. Complainant also asserts that Respondent registered and used the disputed domain name in bad faith, in that “Complainant and its trademarks were so widely well-known that it is inconceivable that the Respondent ignored the Complainant or its earlier rights. The Respondent necessarily had the Complainant’s name and trademarks in mind when registering the domain name. The Respondent’s choice of domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks”. Complainant also contends that Respondent registered the disputed domain name “in the hope and expectation that Internet users searching for the Complainant’s services and products would instead come across the Respondent’s domain name. In fact, the specific nature of the disputed domain name carries a high risk of implied affiliation that cannot constitute fair use and suggests bad faith”. Complainant also contends that Respondent’s awareness of Complainant’s CARREFOUR marks at the time of registration and Respondent’s use of false Whois information also demonstrate bad faith, and that Respondent is preventing Complainant from reflecting its name and trademarks using the disputed domain name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Pursuant to paragraph 15(a) of the Rules, a panel in UDRP proceedings “shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Under paragraph 4(a) of the Policy, Complainant must prove the following:

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

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 the mark is recognizable within the disputed domain name. The disputed domain name consists of Complainant's CARREFOUR mark, preceded by the Portuguese word for "cards" and followed by the ".com" gTLD. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 ("in cases where [...] a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing"); *Carrefour v. Virtual Services Corporation*, WIPO Case No. [D2014.1179](#) ("The Panel finds that the addition of the '.com' and the generic term 'cartao' [the singular form of 'cartoes', which means 'card' in Portuguese] is not enough to escape a finding of confusing similarity."); [WIPO Overview 3.0](#), section 1.11.1 ("[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

Accordingly, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name. "Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [Respondent's] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to [Respondent] of the dispute, [Respondent's] use of, or 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; or

(ii) [Respondent] (as an individual, business, or other organization) ha[s] been commonly known by the [disputed] domain name, even if [Respondent has] acquired no trademark or service mark rights; or

(iii) [Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Policy, paragraph 4(c)."

Although the overall burden of proof in UDRP proceedings is on 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Specifically, there is no evidence of use or demonstrable preparations to use the disputed domain in connection with a bona fide offering of goods or services. Indeed, there is no evidence of any use of the disputed domain name other than the passive holding of the domain name. There also is no evidence that Respondent has been commonly known by the disputed domain name or that Respondent has any trademark rights for the disputed domain name. Furthermore, there is no evidence of any noncommercial or fair use of the disputed domain name. Respondent has not rebutted 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.

As noted in *Carrefour SA. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Renato Siqueira*, WIPO Case No. [D2021-2911](#) in connection with Complainant and concerning the <cartaoocarrefour.site> domain (among other disputed domain names):

"Respondent's use of the disputed domain names to direct Internet users to potentially dangerous and inoperative webpages does not establish rights or legitimate interests in favor of Respondent in any of the disputed domain names. Moreover, each of the disputed domain names consists of Complainant's trademark in its entirety, plus a Portuguese term that may be considered descriptive of the Complainant's services, thereby carrying a risk of implied affiliation to Complainant. Respondent has not suggested any rationale (plausible or not) for use of Complainant's trademark in the disputed domain names. In light of the prima facie implausibility of a legitimate justifying rationale, the Panel declines to suggest or find any legitimate noncommercial or fair use purpose that might establish rights or legitimate interests."

Accordingly, 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. Specifically, "the following 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:

(i) circumstances indicating that [Respondent has] registered or [Respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to 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) [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 [Respondent has] engaged in a pattern of such conduct; or

(iii) [Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of [Respondent's] website or location or of a product or service on [Respondent's] website or location". Policy, paragraph 4(b).

“Given that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to Complainant’s trademark would also satisfy Complainant’s burden.” [WIPO Overview 3.0](#), section 3.1.

In the present case, the Panel notes that Respondent has no license or authorization from Complainant to use the CARREFOUR mark in the disputed domain name, is using a term in the disputed domain name and in Respondent’s email address – “cartoes” – that is likely to be confused with Complainant’s credit cards when used in combination with Complainant’s CARREFOUR mark, and registered the disputed domain name 56 years after Complainant began using the CARREFOUR mark and Carrefour now is a publicly traded company listed on the index of the Paris Stock Exchange that generates revenue of more than EUR 83 billion. This indicates that Respondent was aware of Complainant’s CARREFOUR mark when Respondent registered the disputed domain name, and intended in bad faith to confuse Internet users as to the source, sponsorship, affiliation, or endorsement of the disputed domain name with / by Complainant and/or intended to disrupt Complainant’s business. See *Carrefour SA. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Renato Siqueira*, WIPO Case No. [D2021-2911](#) (“Respondent registered the disputed domain names that each incorporate Complainant’s distinctive and well-known trademark. It is highly unlikely that Respondent inadvertently or accidentally decided upon Complainant’s trademark term. [...] In the totality of the circumstances, the Panel finds that Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraphs 4(b)(ii) & (iv) of the Policy.”); *Carrefour v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Aurelio Lima Cruz*, WIPO Case No. [D2017-2197](#) (“The Panel finds that the Respondent’s choice of the disputed domain name reflects bad faith and an intention on the Respondent’s part (i) to prevent the Complainant, the owner of the CARREFOUR trade mark, from reflecting the mark in a corresponding domain name and/or (ii) to attempt to attract, for commercial gain, Internet users to its online location, by creating a likelihood of confusion with the Complainant’s CARREFOUR trade mark as to the source, sponsorship, affiliation or endorsement of the said online location. The fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith.”). Respondent’s use of false Whois information also is evidence of bad faith. [WIPO Overview 3.0](#), section 3.6 (“Panels additionally view the provision of false contact information (or an additional privacy or proxy service) underlying a privacy or proxy service as an indication of bad faith.”).

Moreover, 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 distinctiveness or reputation of 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.

According, the Panel finds 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 that the disputed domain name <cartoescarrefour.com> be transferred to Complainant.

/Bradley A. Slutsky/

Bradley A. Slutsky

Sole Panelist

Date: October 14, 2024