

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. 潘智伟 (Zhi Wei Pan)

Case No. D2024-3270

1. The Parties

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

The Respondent is 潘智伟 (Zhi Wei Pan), China.

2. The Domain Name and Registrar

The disputed domain name <carrefbrasil.top> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on August 9, 2024. On August 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 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 August 12, 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 in English on August 13, 2024.

On August 12, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On August 26, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on August 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 19, 2024.

The Center appointed Hong Yang as the sole panelist in this matter on September 25, 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 public limited company registered in France, founded in 1959. It is a pioneer of the concept of hypermarkets back in 1963, operating more than 12,000 stores in more than 30 countries, with more than 384,000 employees worldwide. It has 1.3 million daily unique visitors in its webstores and a turnover of around EUR 80 billion every year.

The Complainant is the proprietor of a portfolio of trademarks containing the wording "carrefour", covering multiple jurisdictions, including the following: Brazilian Trademark Registration No. 840719132 for CARREFPUR EXPRESS, registered on July 26, 2016, International Trademark Registration No. 191353 for CARREFOUR, registered on March 9, 1956, and European Union Trademark Registration No. 005178371 for CARREFOUR, registered on August 30, 2007.

The Complainant also owns multiple domain names consisting of the mark CARREFOUR, including: <carrefour.eu>, registered on March 10, 2006, and <carrefour.com.br>, registered on January 18, 1997.

The disputed domain name <carrefbrasil.top> was registered on July 9, 2024. The evidence provided by the Complainant shows that, when the Complaint was filed, the disputed domain name resolved to a website displaying an "Error 1000" message.

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.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that: (1) conducting the proceedings in Chinese would impose an undue burden on the Complainant, who lacks the ability to effectively communicate in that language; (2) English, being broadly understood, is preferred to ensure equitable treatment and facilitate mutual comprehension among all parties; (3) opting for English in the proceedings could enhance efficiency and minimize unnecessary delays.

The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the language of the proceeding, and the deadline for filing a Response in Chinese or English. The Respondent did not make any specific submissions with respect to the language of the proceeding, nor did the Respondent file any Response.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 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 Complainant's trademark CARREFOUR is reproduced in the disputed domain name, save for the letters "our". The Panel finds the mark is recognizable 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, "brasil" may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

Moreover, the applicable generic Top-level Domain ("gTLD") ".top" in the disputed domain name does not change this finding, since the TLD in a domain name, as a standard registration requirement, is generally disregarded in such an assessment of confusingly similarity. [WIPO Overview 3.0](#), section 1.11.

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.

Furthermore, available record shows that the Respondent was not affiliated or otherwise authorized by the Complainant or held any registration of the CARREFOUR mark anywhere. There is no evidence indicating that the Respondent might be commonly known by the disputed domain name.

The disputed domain name resolved to an inactive page displaying "Error 1000", indicating that the Respondent did not make any use of or have made any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, neither did the Respondent make any legitimate noncommercial or fair use of the disputed domain name.

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 used, without any license or authorization, a recognizable part of the Complainant's trademark, in the disputed domain name plus the term "brasil" (the Portuguese for Brazil), a country where the Complainant has a significant presence. The Complainant's trademark CARREFOUR is well known and the Complainant's registration and use of its mark well predates the Respondent's registration of the disputed domain name, so the Respondent knew or should have known of the Complainant's mark at the time of registering the disputed domain name.

The disputed domain name contains the major part of the Complainant's mark with a suffix of geographically descriptive term, "brasil", which may mislead web users into believing that the disputed domain name is used by the Complainant for its business of the Complainant in Brazil. Moreover, there is an absence of the Respondent's rights or legitimate interests in the disputed domain name as discussed under the section 6.2.B of the decision, coupled with the Respondent's failure to submit a response with any credible explanation for the Respondent's choice of the disputed domain name. This leads the Panel to consider more likely than not that the Respondent's registration targets the Complainant, which constitutes bad faith.

At the time of filing the Complaint, the disputed domain name resolved to an inactive page displaying an "Error 1000" message. Panels have found that the non-use of a domain name (including a blank or "coming soon" 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 reputation of the Complainant's trademark, and the Respondent's failure to submit a response, 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 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 <carrefbrasil.top> be transferred to the Complainant.

/Hong Yang/

Hong Yang

Sole Panelist

Date: October 9, 2024