

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. luo jjawen, weiwanguoyoxiangongsi
Case No. D2024-3928

1. The Parties

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

The Respondent is luo jjawen, weiwanguoyoxiangongsi, China.

2. The Domain Name and Registrar

The disputed domain name <carrefourr.top> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 25, 2024. On September 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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 (See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 27, 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 September 27, 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 October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 24, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on November 1, 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, a company registered in France and listed on the Paris Stock Exchange, pioneered in 1968 the creation of the first hypermarkets and has since grown to become one of the world leaders in retail goods sales. With a turnaround of EUR 80.7 billion in 2019, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40).

The Complainant operates more than 12,000 stores in more than 30 countries worldwide. With more than 321,000 employees worldwide, 11 million of daily checkout in its stores and 1.3 million daily unique visitors in its online stores.

To that effect, the Complainant owns several hundred trademark registrations worldwide in the CARREFOUR term. In particular, the Complainant is the owner of the following trademarks registered before the registration of the disputed domain name, notably:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in International Classes 01 to 34
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in International Classes 35 to 42.

The disputed domain name was registered on September 1, 2024. It resolves to an error 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 highly similar to the earlier well-known trademark CARREFOUR. The disputed domain contains the trademark CARREFOUR in its entirety, with the simple addition of a "r" at the end.

The mere presence of an additional "r" in this case, considering the concerned trademark, does not allow the disputed domain name to avoid being confusingly similar to the trademark CARREFOUR.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's earlier trademark CARREFOUR.

The Complainant asserts that the Respondent has no license or authorization from the Complainant, which is evidence of a lack of legitimate interest.

The Complainant puts forth that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a bona fide offering of goods or services. On the contrary, the disputed domain name resolves to an error page.

The Complainant submits that the Complainant and its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights on the term CARREFOUR.

The Complainant contends that the Respondent had the Complainant's name and trademark in mind when registering the domain name.

The Complainant submits that it is highly likely that the Respondent chose the disputed domain name because of its extreme similarity with a trademark in which the Complainant has rights and legitimate interest.

The Complainant states that the Respondent acquired the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's earlier marks.

The Complainant submits that the Respondent has been using a privacy protection service in an attempt to escape the present proceeding.

The Complainant contends that the disputed domain name was registered and is being used in bad faith by the Respondent.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

The Panel holds that the disputed domain name is confusingly similar to the Complainant's trademarks CARREFOUR. The Respondent's incorporation of Complainant's trademarks in the disputed domain name with an additional "r" is evidence that the disputed domain name is confusingly similar to the Complainant's trademarks. Mere inclusion of letter "r" at the end of the trademark CARREFOUR does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks. The Complainant has provided evidence of its rights in the trademarks on the basis of its multiple International trademark registration for CARREFOUR trademark. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1). It has also been established by prior UDRP panels that when a trademark is sufficiently recognizable in a domain name it will be considered confusingly similar to the trademark. Such findings were confirmed, for example, within sections 1.7 and 1.8 of the [WIPO Overview 3.0](#).

Further, the addition of the generic Top-Level Domain ".top" to the disputed domain name is a standard registration requirement and as such is typically disregarded.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant's trademark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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 section 2.1 of the [WIPO Overview 3.0](#)).

The Complainant has made a prima facie showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, including by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

There is no evidence that the Respondent is commonly known by the disputed domain name. The Panel finds that the composition of the disputed domain name, including the addition of the letter “r” at the end of the trademark CARREFOUR, carries a risk of implied affiliation with the Complainant.

The Panel notes that the Respondent has not filed any response and thus did not deny the Complainant’s assertions, nor brought any information or evidence demonstrating any rights or legitimate interests.

Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, inter alia, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent 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 the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its trademark. On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the CARREFOUR trademark at the time the disputed domain name was registered. Bad faith can be presumed based on the widely evidenced recognition of the Complainant’s trademarks and nature of the disputed domain name (discussed further below), such that the Respondent was most likely aware of the Complainant’s well-known marks and related rights. The Panel finds that the Respondent has registered the disputed domain name that contains the Complainant’s trademark CARREFOUR, with mere inclusion of letter “r” at the end. This kind of conduct suggests both knowledge of the Complainant and its trademarks, and an intent to create confusion with and take unfair advantage of such marks.

In the Panel’s view, the Complainant’s trademark is widely known and registration by the unrelated Respondent creates a presumption of bad faith in this case. On this subject, section 3.1.4 of the [WIPO Overview 3.0](#) says: “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.”

Furthermore, the disputed domain name resolved to an error page at the time of filing of the Complaint. The Panel finds that the passive holding of the disputed domain name in the circumstances of the case does not prevent a finding of bad faith registration and use considering the reputation and distinctiveness of the Complainant's earlier trademarks, and the nature of the disputed domain name (see section 3.3 of the [WIPO Overview 3.0](#)). The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding.

The Panel concludes that the disputed domain name was registered and is being used in bad faith and that consequently, the Complainant has satisfied the requirement under paragraph 4(a)(iii) 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 <carrefourr.top> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: November 11, 2024