

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. yilmaz kabarak  
Case No. D2024-3950

### **1. The Parties**

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

The Respondent is yilmaz kabarak, Türkiye.

### **2. The Domain Names and Registrar**

The disputed domain names <guvenliodeme-carrefoursa.online> and <guvenliodeme-carrefoursa.shop> are registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2024. On September 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 27, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Privacy Protect, LLC, PrivacyProtect.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 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 October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 4, 2024.

The Center appointed Johan Sjöbeck as the sole panelist in this matter on November 5, 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 has submitted evidence that it is the owner of a number of CARREFOUR trademark registrations in various countries and classes, including:

- CARREFOUR, International trademark with registration number 351147 and registration date October 2, 1968 for goods and services in class 1-34; and
- CARREFOUR, International trademark with registration number 353849 and registration date February 28, 1969 for goods and services in class 35-42.

The disputed domain names <guvenliodeme-carrefoursa.online> and <guvenliodeme-carrefoursa.shop> were registered on September 3, 2024 and resolve to websites displaying “403 Forbidden” error messages.

#### **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 names.

Notably, the Complainant contends that:

- The disputed domains names are confusingly similar to the well-known trademark CARREFOUR. The disputed domain names include the trademark together with generic terms “Güvenli Odeme”, which is Turkish for “Safe Payment”;
- There is no evidence that the Respondent has been commonly known by the disputed domain names as an individual, business, or other organization. The Complainant has filed the present Complaint soon after the registration of the disputed domain names, intending to not allow the Respondent to become commonly known by the disputed domain names;
- The Respondent reproduces the Complainant’s registered trademark CARREFOUR in the disputed domain names without any license or authorization from the Complainant;
- The Complainant and its trademark are so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights on the term CARREFOUR;
- The Respondent chose the disputed domain names because of their inclusion of a trademark in which the Complainant has rights and legitimate interest. This was most likely done in the hope and expectation that Internet users searching for the Complainant’s services and products would instead come across the Respondent’s site. The Complainant thus states that the Respondent acquired and is using the disputed domain names to attract Internet users by creating a likelihood of confusion with the Complainant’s marks;
- The Complainant’s trademark registrations significantly predate the registration date of the disputed domain names. A quick trademark search for CARREFOUR would have revealed to the Respondent the existence of the Complainant and its trademarks. The Respondent’s failure to do so is a contributory factor to its bad faith;

- The current use of the disputed domain names may not be considered a good faith use of the domain. By simply holding the domain names, the Respondent is preventing the Complainant from reflecting its trademark in the corresponding domain names under the doctrine of passive holding; and
- The Complainant states that the Respondent has engaged in a pattern of behavior which is a strong evidence of bad faith registration and use.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) that 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 test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant is, according to the submitted evidence, the owner of the registered trademark CARREFOUR. The disputed domain names incorporate the trademark entirely with the addition of the letters "sa", a common abbreviation of the term "Société Anonyme", and the descriptive term "guvenliodeme", which translates to "safe payment" in Turkish.

Considering that the trademark is recognizable in the disputed domain names, the addition of the letters "sa" and the descriptive term "guvenliodeme", do not prevent a finding of confusing similarity for the purposes of the Policy. It is standard practice to disregard the generic Top-Level Domain ("gTLD") under the confusingly similar test.

Having the above in mind, the Panel concludes that the disputed domain names are confusingly similar to the Complainant's trademark CARREFOUR and that the Complainant has proven the requirement under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant must show that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that the Respondent uses or has made 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 prior to the dispute; or

- (ii) that the Respondent is commonly known by the disputed domain name, even if the Respondent has not acquired any trademark rights; or
- (iii) that the 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that 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. 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.

From the submitted material in the Complaint and its annexes, it is clear that the Complainant's trademark registrations for CARREFOUR predate the Respondent's registration of the disputed domain names. The Complainant has not licensed, approved, or in any way consented to the Respondent's registration and use of the trademark in the disputed domain names. There is nothing in the case indicating that the Respondent is commonly known by the disputed domain names.

According to the submitted material in the Complaint and its annexes, the disputed domain names are not resolving to any active websites and there is no evidence demonstrating or indicating that the Respondent has used or made any preparations to use the disputed domain names in connection with a bona fide offering of goods or services prior to the dispute.

Although given the opportunity, the Respondent has not rebutted the Complainant's prima facie case. The Respondent has not come forward or submitted any evidence indicating that it is the owner of any trademark or that it is commonly known by the disputed domain names. Furthermore, there is no evidence indicating that the Respondent intends to make a legitimate, noncommercial or fair use of the disputed domain names without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

The Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy or otherwise, any rights or legitimate interests in respect of the disputed domain names. Thus, there is no evidence in the case that refutes the Complainant's submissions, and the Panel concludes that the Complainant has also proven the requirement under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use include without limitation:

- (i) circumstances indicating the disputed domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) circumstances indicating that the disputed domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding disputed domain name, provided there is a pattern of such conduct; or
- (iii) circumstances indicating that the disputed domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the disputed domain name has intentionally been used in an attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location, by

creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on that website or location.

The Panel notes that the Complainant's trademark is considered distinctive and well-known according to UDRP decisions cited by the Complainant. See *Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#) in which the Panel stated "CARREFOUR is a well-known trademark in France and elsewhere". As previously mentioned, the Complainant's trademark registrations for CARREFOUR predate the registration of the disputed domain names that contain the Complainant's trademark entirely. The Complainant has argued that the Respondent knew or should have known of the Complainant's trademark when registering the disputed domain names. In the absence of any evidence to the contrary, the Panel agrees with the Complainant, that the Respondent registered the disputed domain names with the Complainant's trademark and business in mind.

The Complainant has provided evidence that the disputed domain names resolve to webpages displaying a "403 Forbidden" error message. 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. See [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy. Accordingly, the Panel is convinced by the evidence in the Complaint and its annexes that the Respondent registered the disputed domain names to prevent the Complainant from using its trademark in the corresponding disputed domain names and that the Respondent's behavior reflects a pattern of conduct.

In the absence of any evidence to the contrary, the Panel is persuaded on the balance of probabilities that the Respondent registered and used the disputed domain names with the Complainant's trademark and business in mind. Another factor to weigh in the balance is the fact that the Respondent has not responded to the Complainant's contentions.

There is no evidence in this case that refutes the Complainant's submissions and the Panel concludes that the Complainant has proved the requirements under paragraph 4(a)(iii) of the Policy that the disputed domain names have been registered and used in bad faith.

## **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 names <guvenliodeme-carrefoursa.online> and <guvenliodeme-carrefoursa.shop> shall be transferred to the Complainant.

*/Johan Sjöbeck/*

**Johan Sjöbeck**

Sole Panelist

Date: November 12, 2024