

PANEL DECISION

CARREFOUR v. Patrick Overmeire
Case No. DEU2024-0025

1. The Parties

The Complainant is CARREFOUR of France, represented by IP Twins, France.

The Respondent is Patrick Overmeire of Belgium.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <carrefourwinkel.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is EURid vzw.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2024. On August 8, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On August 14, 2024, the Registry 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 2024 providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The 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 .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 22, 2024. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was September 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2024.

The Center appointed Martin Švorčík as the sole panelist in this matter on October 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 ADR Rules, Paragraph B(5).

4. Factual Background

The Complainant was founded in 1959 and is nowadays one of the biggest retail companies (supermarkets, hypermarkets) in the world.

The Complainant is owner of numerous CARREFOUR trademarks, such as:

- European Union (“EU”) registration No. 005178371 for the word mark CARREFOUR, registered on August 8, 2007;

- France registration No. 1565338 for the word mark CARREFOUR registered on December 8, 1989;

The Complainant operates its official website under the domain name <carrefour.fr>, <carrefour.it>, <carrefour.es>, <carrefour.be> and under the domain name <carrefour.eu> in Europe.

The Complainant also owns social media accounts such as Facebook France with 12 million followers, Facebook Spain with 12 million followers, or Facebook Belgium with 11 million followers.

The disputed domain name was registered on July 10, 2024. The record shows the disputed domain name has been parked and has not been in use.

5. Parties’ Contentions

A. Complainant

The Complainant states that it now operates more than thousands stores in more than 30 countries worldwide. With more than 384.000 employees, 1.3 million daily unique visitors in its webstores, and a turnover around EUR 80 billion every year. The Complainant is undoubtedly a major and well-known worldwide leader in retail.

As for the argumentation itself, the Complainant states that the disputed domain name registration fulfils all criteria pursuant to Paragraph B(11)(d)(1) of the ADR Rules, i.e.:

- the disputed domain name is identical or confusingly similar to their trademarks CARREFOUR which are well known. The inclusion of the term “winkel” does not alleviate confusion; rather, it suggests a direct affiliation with Carrefour’s retail activities. Therefore, the disputed domain name misleadingly implies a connection with the Complainant.

- the Respondent has no rights or legitimate interests in the disputed domain name, because the Respondent incorporates the Complainant’s well-known trademarks in the disputed domain name without any license or authorization from the Complainant, the disputed domain name does not resolve to an active website but to a parking page which is not considered as a legitimate use, the Respondent is unable to demonstrate a right or legitimate interest in the disputed domain name.

- the Respondent registered and is using the disputed domain name in bad faith as he incorporates the Complainant’s trademark in its entirety and is thus suited to divert or mislead potential web users from the website they are actually trying to visit, panels have consistently found that the mere registration of a disputed domain name that is identical or confusingly similar to a famous or well-known trademark by an

unaffiliated entity can by itself create a strong presumption of bad faith the Respondent has taken active steps to conceal its true identity, the disputed domain name is not actively used but instead is parked by default by the reseller, which, under the ADR Rules and relevant case law, can be considered an act of bad faith, it is not possible to imagine any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, Respondent decides not to participate in this procedure.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issues

Due to the similarities of the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Panel will also take into account the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)").

6.2 Substantive Issues

Pursuant to Paragraph B(11)(d)(1) of the ADR Rules the Panel shall issue a decision granting the remedies requested by the Complainant in the event that the Complainant proves the following elements:

- (i) the domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) the domain name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) the domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Complainant proved that it is owner of multiple trademarks CARREFOUR including an EU registration – the trademarks CARREFOUR are well-known trademarks.

After comparison of the disputed domain name and the trademarks of the Complainant, it is evident for the Panel that the disputed domain name consists of the Complainants' CARREFOUR trademark which is fully integrated in the disputed domain name, to which a word "winkel" was added, which means "shop" in Dutch language. The addition of the term to the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainants' CARREFOUR trademark. - see *eBay Inc. v. ebayMoving / Izik Apo*, WIPO Case No. [D2006-1307](#). The ".eu" country code Top-Level Domain is typically disregarded for the purposes of the comparison with the Complainants' trademarks on the basis that it is a standard technical requirement for registration – see *Lidl Stiftung & Co. KG v. Name Redacted*, WIPO Case No. [DEU2018-0012](#).

Therefore, the requirements under the first element of Paragraph B(11)(d)(1)(i) of the ADR Rules were met.

B. Rights or Legitimate Interests

Under Paragraph B(11)(e) of the ADR Rules, rights or legitimate interests may be demonstrated where:

- (i) prior to any notice of the dispute, the Respondent has used the disputed domain name or a name corresponding to the domain name in connection with the offering of goods and services or has made demonstrable preparations to do so;

(ii) the Respondent, being an undertaking, organization or natural person, has been commonly known by the domain name, even in absence of a right recognised or established by national and/or European Union law;

(iii) the Respondent is making a legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in respect of which a right is recognised or established by national and/or European Union law.

While the overall burden of proof in ADR Rules proceedings lies with the Complainant, panels have acknowledged that proving a Respondent lacks its rights or legitimate interests in a domain name can often result in the challenging task of “proving a negative,” which requires information typically within the Respondent’s knowledge or control. Consequently, when a Complainant establishes a prima facie case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the Respondent to provide relevant evidence demonstrating their rights or legitimate interests in the domain name. If the Respondent fails to present such evidence, the Complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1).

Upon reviewing the record, the Panel finds that the Complainant has made prima facie evidence of the validity and notoriety of the CARREFOUR trademarks. These registrations are also prima facie proof of the Complainant’s ownership of these trademarks, and of the Complainant’s exclusive rights to use these trademarks in connection with the goods and/or services for which these trademarks were registered in the corresponding jurisdictions.

From the evidence, it is also clear that the Respondent is not sponsored by or associated with the Complainant in any manner. Moreover, the Complainant has not granted the Respondent any permission, license, or authorization to use the Complainant’s trademark in any capacity, including within domain names. “In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed.” see *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)

Furthermore the Respondent does not appear to be commonly known by the disputed domain name and there is no evidence that might support such finding. See *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#), finding that a Respondent, or his/her organization or business, must have been commonly known by the at-issue domain at the time of registration in order to have a legitimate interest in the domain”.

There is also no indication that the Respondent uses (or has made bona fide preparations to use) the disputed domain name in a business or otherwise. The disputed domain name based on its composition also carries a risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

The Panel further states that the Complainant proved that the Respondent registered the disputed domain name on July 10, 2024, which is after the Complainant’s registration of its CARREFOUR trademarks.

The Panel therefore accepts the Complainant’s prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name and that the Complainant has satisfied the condition set out at Paragraph B(11)(d)(1)(ii) of the ADR Rules.

C. Registered or Used in Bad Faith

As the two conditions stipulated in Paragraph B(11)(d)(1)(i) and (ii) of the ADR Rules have already been fulfilled, the Panel does not need to examine whether the Respondent has registered or is using the disputed domain name in bad faith, under Paragraph B(11)(d)(1)(iii) of the ADR Rules.

However, the Panel has done it by its own discretion and finds out that in fact all as the conditions of the bad faith stipulated in Paragraph (B)11(d)(1)(iii) of the ADR Rules have been met.

The Complainant has proved that it is well known by the CARREFOUR trademark and designation.

There are already many UDRP panel decisions that reasoned that passive holding of a domain name also constitutes bad faith, especially when its good faith use is in no way plausible, considering the specificity of the activity (see section 3.3 of the [WIPO Overview 3.0](#)), namely:

- (i) the degree of distinctiveness or reputation of the Complainant's mark,
- (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use

As the trademarks of the Complainant are with no doubt well known trademarks and as the Respondent failed to submit a response, the Panel is persuaded about bad faith registration condition to be met.

It was also established in another UDRP decision that "Examples of what may be cumulative circumstances found to be indicative of bad faith include the Complainant having a well-known trademark, no response to the complaint having been filed, and the registrant's concealment of its identity. Panels may draw inferences about whether the domain name was used in bad faith given the circumstances surrounding registration, and vice versa." -see *Missoni S.p.A. v. 米索尼股份有限公司 / Missoni Limited*, WIPO Case No. [D2015-0843](#).

Furthermore, the Panel is convinced that there cannot exist any plausible future active use of the disputed domain name that would not be illegitimate, considering the specificity of the Complainant's undertaking and the wording of the disputed domain name - see *Audi AG v. Hans Wolf*, WIPO Case No. [D2001-0148](#).

The Panel therefore concludes that the Respondent has both registered and used the disputed domain name in bad faith and that the condition set out at Paragraph B(11)(d)(1)(iii) of the ADR Rules has also been satisfied.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <carrefourwinkel.eu> be transferred to the Complainant. ¹

/Martin Švorčík/

Martin Švorčík

Sole Panelist

Date: October 15, 2024

¹ (i) The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) As the Complainant is located in France, a Member State of the European Union, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of the Regulation (EU) 2019/517. Therefore, the Complainant is entitled to request the transfer of the disputed domain name.