

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Pushkin Ivan Aleksanrov

Case No. DPW2022-0002

1. The Parties

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

The Respondent is Pushkin Ivan Aleksanrov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <carrefour-es.pw> is registered with Beget LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2022. On November 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 17, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 2022, 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 November 21, 2022.

The Center sent an email communication in both English and Russian regarding the language of the proceeding on November 21, 2022. On November 21, 2022, the Complainant requested to proceed in English. The Respondent did not reply on the language of the proceedings email.

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 in both English and Russian, and the proceedings commenced on December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 22, 2022.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on December 29, 2022. 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, which operates under the trademark CARREFOUR, is a retail supermarket chain. It operates more than 12,000 stores in more than 30 countries, has in excess of 384,000 employees worldwide and 1.3 million unique visitors to its stores daily. The Complainant owns several hundred trademark registrations worldwide for the mark CARREFOUR, including in the Russian Federation. Its trademark registrations include International trademark registration No. 351147, CARREFOUR, registered on October 2, 1968, and designating goods in International Classes 1 to 34; International trademark registration No. 353849, CARREFOUR, registered on February 28, 1969, designating services in International Classes 35 to 42; and International trademark registration No. 563304, CARREFOUR, registered on November 6, 1990, and designating goods and services in International Classes 1 to 42.

The Complainant also operates numerous websites linked to domain names incorporating the mark CARREFOUR, including <carrefour.com>.

The disputed domain name was registered on August 29, 2022 and resolves to a suspended parking page.

5. Parties' Contentions

A. Complainant

The Complainant says that its CARREFOUR trademark is globally well-known. It contends that the disputed domain name is confusingly similar to its earlier registered and used trademark CARREFOUR, which it incorporates in its entirety followed by the suffix "-es". The latter is an addition that does not diminish the likelihood of confusion. The CARREFOUR trademarks are said to be recognizable within the disputed domain name, and the Complainant points out that the lower case and inclusions are of no significance when determining confusing similarity.

The Complainant asserts that its searches establish that the Respondent has not acquired trademark rights in the term "carrefour", or "carrefour es", and that there is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. The Complainant says it filed the present Complaint soon after the registration of the disputed domain name, to prevent the Respondent from becoming commonly known by the disputed domain name. The Complainant has not authorized the use of its Carrefour trademarks or similar terms in the disputed domain name.

The Complainant points out that when a disputed domain name resolves to a blank or error page this does not constitute a *bona fide* offering of goods or services. There is no evidence of a legitimate or fair use of the disputed domain name which in any case is not likely to be possible, as no such use is plausible given the fame of the CARREFOUR trademark of the Complainant.

The Complainant says that it has made out a *prima facie* case that the Respondent has no rights or interests in the disputed domain name and that in the absence of any response, it has done enough to meet the requirements of the Policy in this regard.

The Complainant says that given the long-established renown of its CARREFOUR trademarks worldwide it is inconceivable that the Respondent was not aware of the Complainant's rights at the time of registration of the disputed domain name. The Complainant says the Respondent must have had its CARREFOUR trademark in mind and points out that a disputed domain name that is identical or confusingly similar to a

famous or well-known trademark and is registered by an unrelated entity can by itself create a presumption of bad faith.

The Complainant maintains that the Respondent likely 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 disputed domain name. The Complainant also says that, if it wasn't already obvious to the Respondent, a simple Internet search would have revealed the Complainant's rights in the CARREFOUR trademarks. This establishes registration in bad faith. The fact the disputed domain does not resolve to an active page does not prevent a finding of bad faith, and in any case it is according to the Complainant impossible to imagine a good faith use of the present disputed domain name by an unrelated party.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

In accordance with paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Paragraph 10(c) of the Rules sets out that the Panel shall ensure that the administrative proceeding takes place with due expedition.

The language of the Registration agreement is Russian, and the Respondent in fact appears to be based in the Russian Federation. However, the Complainant is a French corporation and does not have the necessary language skills as such to conduct this proceeding in Russian. Moreover, the Respondent has not replied in any way to the contentions of the Complainant and has not sought to conduct the proceedings in Russian, despite Notification in that language. The dispute domain name resolves to a parking page in English, and the disputed domain name contains the registered and widely reputed trademark of a French corporation. In the interests of fairness and to avoid an undue burden being placed on the Complainant, and in the absence of any reaction from the Respondent, the language of this proceeding shall be English.

B. Identical or Confusingly Similar

The disputed domain name is not identical to the CARREFOUR registered trademarks of the Complainant. However, that mark is immediately recognizable within the disputed domain name. The conditions of the first element are thereby satisfied.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the Carrefour trademark of the Complainant.

C. Rights or Legitimate Interests

The Respondent has not replied to the *prima facie* contentions of the Complainant in any way. There is nothing before the Panel that indicates that the Respondent has rights or legitimate interests in the disputed domain name or is known by the disputed domain name or anything similar. The latter incorporates the Complainant's distinctive and long-recognized trademark in its entirety, a use of that mark which the Complainant never authorized or condoned. The disputed domain name resolves to a parking page and there is no evidence of any legitimate actual or intended use. Such use is difficult to imagine in any case,

given the distinctiveness of the Complainant's mark and the fame that attaches to it.

Moreover, the nature of the disputed domain name, incorporating the Complainant's well-known trademark and a geographic term tending to suggest sponsorship or endorsement by the Complainant, carries a high risk of implied affiliation. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

D. Registered and Used in Bad Faith

According to section 3.1.4 of the [WIPO Overview 3.0](#) 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.

At the time of registration of the disputed domain name, the CARREFOUR trademark of the Complainant was already well established in many jurisdictions around the world. It had long been in use in relation to supermarkets, which provide goods and services for almost every category of consumer. It is not imaginable that the Respondent was unaware of the trademark rights of the Complainant at that time. Further, the Respondent has done nothing with the disputed domain name that could support a contention of good faith use. He has simply held onto the disputed domain name, which resolves to a suspended parking page. Such passive holding, of a domain name manifestly incorporating a highly distinctive and widely reputed trademark, is clearly open to potential bad faith uses. That is, uses that depend on Internet users being misled into thinking that the disputed domain name that so clearly and unequivocally evokes the Complainant, must be within its legitimate control. That is obviously not the case here. In this regard, the Panel notes that the Respondent has not submitted any response, which in the circumstances of this case suggests to the Panel that the Respondent has no good faith reason for the registration or use of the disputed domain name that it could bring forward, and so further supports a finding of bad faith.

Therefore, the Panel holds that the disputed domain name was 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 name <carrefour-es.pw> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: January 12, 2023