

ADMINISTRATIVE PANEL DECISION

**Carrefour SA v. Whois Privacy Protection Foundation / Remyeld Lantak,
Megatour
Case No. D2022-0010**

1. The Parties

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

The Respondent is Whois Privacy Protection Foundation, the Netherlands / Remyeld Lantak, Megatour, France.

2. The Domain Names and Registrar

The disputed domain names <carrefour-banque-france.com> and <carrefour-banquepass.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2022. On January 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 5, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 10, 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 January 14, 2022.

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 January 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 4, 2022.

The Center appointed Alexandre Nappey as the sole panelist in this matter on February 11, 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 is the French company Carrefour SA, a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968.

The Complainant operates more than 12.000 stores in more than 30 countries worldwide.

With more than 384.000 employees worldwide and 1.3 million daily unique visitors in its stores, the Complainant is without a doubt a major and well-known worldwide leader in retail.

The Complainant additionally offers travel, banking, insurance, or ticketing services.

The Complainant owns several trademark registrations in many countries including *inter alia* the following trademarks:

- 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;
- French trademark BANQUE CARREFOUR No. 3585968, registered on July 2, 2008, duly renewed, and designating services in international class 36
- French trademark CARREFOUR BANQUE & ASSURANCE No. 3585950, registered on July 2, 2008, duly renewed, and designating services in international class 36.
- French trademark CARREFOUR PASS No. 99780481, registered on March 12, 1999, duly renewed, and designating services in international class 36.

The Complainant is also the owner of the domain names:

- <carrefour.com> registered on October 25, 1995
- <carrefour-banque.fr> registered on July 7, 2009.

The disputed domain name <carrefour-banque-france.com> was registered on August 6, 2021, whereas the disputed domain name <carrefour-banquepass.com> was registered on August 5, 2021. The disputed domain names resolve to inactive websites.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain names are similar to its earlier trademarks CARREFOUR, to the point of creating confusion.

Indeed, the disputed domain names reproduce the earlier trademarks CARREFOUR, BANQUE CARREFOUR and CARREFOUR PASS in their entirety, and the trademarks LA BANQUE CARREFOUR and CARREFOUR BANQUE & ASSURANCE in their most distinctive parts.

The disputed domain names reproduce the earlier trademark CARREFOUR in its entirety, together with the terms "pass", "banque" and the geographical term "France".

These are French terms related to banking and finance, in which the Complainant is active, and where the Complainant is coming from.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

The Complainant performed searches and found no CARREFOUR trademark owned by the Respondent.

The Complainant asserts that the Respondent has acquired no trademark in the name CARREFOUR which could have granted the Respondent rights in the disputed domain names.

Furthermore, the Complainant has found no evidence whatsoever that the Respondent is known by the disputed domain names.

The Respondent reproduces the Complainant's earlier registered trademarks CARREFOUR in the disputed domain names without any license or authorization from the Complainant, which is strong evidence of the lack of legitimate interests.

The Complainant submits that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain names in relation to a *bona fide* offering of goods or services. On the contrary, the disputed domain names are not put to any use.

Since the adoption and extensive use of the trademark CARREFOUR by the Complainant predates the first entry of the disputed domain names, the burden is on the Respondent to establish the Respondent's rights or legitimate interests the Respondent may have or had in the disputed domain names.

None of the circumstances which set out how a respondent can prove rights or legitimate interests in the disputed domain names are present in the case at issue.

The Complainant claims that the disputed domain names were registered and are being used in bad faith.

Firstly, the Complainant alleges 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. According to the Complainant, it is clear that the Respondent had the Complainant's name and trademark in mind when registering the disputed domain names.

The Respondent's choice of the disputed domain names cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks.

Secondly, the Complainant alleges that it is very likely that the Respondent chose the disputed domain names because of their similarity or identity with a trademark in which the Complainant has rights and legitimate interests.

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 sites.

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 earlier marks.

Thirdly, the Complainant's CARREFOUR trademark registrations significantly predate the registration dates of the disputed domain names.

In this regard, previous panels have established that knowledge of the Complainant's intellectual property rights, including trademarks, at the time of registration of the disputed domain names, proves bad faith

registration.

Fourthly, the current use of the disputed domain names may not be considered a good faith use.

By maintaining the disputed domain names, the Respondent is preventing the Complainant from reflecting its trademark in the corresponding disputed domain name.

In light of all the elements above, the Complainant contends that the disputed domain names were registered and are being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain names, the Complainant must prove each of the following, namely that:

- i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- iii) the disputed domain names were registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns exclusive trademark rights in CARREFOUR which predate the registration of the disputed domain names.

The Panel finds that the disputed domain names are confusingly similar to the registered CARREFOUR trademarks owned by the Complainant.

Indeed, the disputed domain names incorporate the entirety of the Complainant's CARREFOUR trademark with the mere addition of a hyphen, the word "banque", the word "pass" and the geographical name "France".

The dominant part of each disputed domain name is the Complainant's trademark CARREFOUR, and the addition of additional terms does not prevent a finding of confusing similarity. See, in similar circumstances: *Carrefour v. Contact Privacy Inc. Customer 0151662948 / Lucas Montanaro*, WIPO Case No. [D2018-2462](#).

Indeed where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's mark under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent has been commonly known by the disputed domain names, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making 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 or service mark at issue.

Considering the difficulty to demonstrate a negative, UDRP panels consistently find that if the complainant raises a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain names under paragraph 4(a)(ii) of the Policy, the burden of production on this element shifts to the respondent to demonstrate its rights or legitimate interests in the disputed domain names.

Here, the Complainant has stated that it has not authorized, licensed, or consented to the Respondent any use of its CARREFOUR trademark.

It results from these circumstances that the Respondent does not own any right in the trademarks CARREFOUR or is commonly known by the disputed domain names.

In the light of what is stated above, the Panel finds that the Complainant has made an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Panel finds from the available record that the second element of paragraph 4(a) of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a panel to be evidence of bad faith registration and use of a domain name. It provides that:

"For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location".

Since CARREFOUR is a well-known trademark and there is no evidenced relationship between the Parties, it may be inferred that the Respondent was aware of the Complainant's trademark at the time it registered the disputed domain names.

See, for example, *Carrefour v. Milen Radumilo / Privacy Inc. Customer 0151725578*, WIPO Case No. [D2018-2203](#) and *Carrefour v. Contact Privacy Inc. Customer 0151662948 / Lucas Montanaro*, WIPO Case No. [D2018-2462](#).

Thus, the Panel cannot conceive any use that the Respondent could make of the disputed domain names that would not interfere with the Complainant's trademark rights.

Accordingly, the Panel finds that the Respondent registered the disputed domain names with the Complainant in mind and with the intention of capitalizing on the reputation of the Complainant within the meaning of paragraph 4(b)(iv) of the Policy.

Moreover, the Panel notes that the fact that the disputed domain names resolve to inactive websites, does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

In these circumstances the Panel holds that the disputed domain names were registered and used in bad faith.

The Panel finds that the above constitutes registration and use in bad faith pursuant to the third requirement of paragraph 4(a) 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 names, <carrefour-banque-france.com> and <carrefour-banquepass.com>, be transferred to the Complainant.

/Alexandre Nappey/
Alexandre Nappey
Sole Panelist
Date: March 2, 2022