

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Ben Jena and Didier Moula
Case No. D2022-0422

1. The Parties

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

The Respondents are Ben Jena, France and Didier Moula, France.

2. The Domain Names and Registrar

The Disputed Domain Names <carrefour-client-pass.com>, <carrefour-pass-client.com> and <carrefours-client-pass.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 8, 2022. On February 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On February 9, 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 February 9, 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 February 10, 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 February 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 17, 2022.

The Center appointed Isabelle Leroux as the sole panelist in this matter on March 22, 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 Carrefour SA, a worldwide retail company which operates more than 12,000 stores in more than 30 countries worldwide, with over 384,000 employees worldwide and 1.3 million daily visitors in its stores. The Complainant additionally offers travel, banking, insurance, and ticketing services.

For the needs and purposes of its activities, the Complainant is the owner of numerous trademarks such as:

- International wordmark CARREFOUR no. 351147, registered on October 2, 1968 under priority of French trademark no. 238 949 registered on January 7, 1965, duly renewed and designating Benelux, Spain, Italy and Monaco for goods in classes 01 to 34;
- International wordmark CARREFOUR no. 353849, registered on February 28, 1969 under priority of French trademark no. 747 725 registered on September 27, 1968, duly renewed and designating Estonia, Lithuania, Benelux, Spain, Croatia, Hungary, Italy, Liechtenstein, Latvia, Morocco, Monaco, Montenegro, North Macedonia, Serbia, Slovenia, Slovakia and San Marino for services in classes 35 to 42;
- International wordmark CARREFOUR PASS no. 719166, registered on August 18, 1999 under priority of a French trademark no. 99 780 481 registered on March 12, 1999, duly renewed and designating Turkey, Benelux, Switzerland, China, Spain, Hungary, Italy, Poland and Portugal for services in class 36;

Hereinafter the “Trademarks” or “Trademark”.

In addition, the Trademark CARREFOUR has been recognized as well-known by numerous prior UDRP cases.

Three domain names (thereafter the “Disputed Domain Names”) were registered by seemingly two different persons:

- <carrefour-pass-client.com> was registered on August 24, 2021 by Didier Moula;
- <carrefour-client-pass.com> was registered on September 17, 2021 by Ben Jena;
- <carrefours-pass-client.com> was registered on September 18, 2021 by Didier Moula.

The Complainant believes that there are sufficient elements to establish that the above registrants are one and the same and should be treated as one Respondent.

The Disputed Domains Names are not active and all resolve to an error page.

5. Parties’ Contentions

A. Complainant

As a preliminary matter, the Complainant states that even though the Disputed Domain Names were registered by two different registrants, several elements indicate that they were actually registered by one and the same Respondent and that therefore the complaints should be consolidated accordingly. In particular, the Complainant states that the Disputed Domain Names were registered a few days apart and share the same structure, registrar and name servers.

As to the substantial analysis, the Complainant claims that:

a) the Disputed Domain Names are identical or at least confusingly similar to the Complainant's CARREFOUR and CARREFOUR PASS Trademarks since it incorporates the Trademarks in their entirety with the addition of term "client".

b) the Respondent has no rights or legitimate interests in the Disputed Domain Names since:

- The Respondent does not own any CARREFOUR or PASS trademarks;
- The Respondent is not commonly known by the Disputed Domain Names;
- The Complainant has never authorized nor given its consent to the Respondent for registering and using the Disputed Domain Names;
- There is no evidence of any use of the Disputed Domain Names by the Respondent in connection to a *bona fide* offering of goods or services.

c) the Respondent has registered and uses the Disputed Domain Names in bad faith given the following factors:

- The Complainant's Trademarks benefit from a long-lasting worldwide reputation;
- The Complainant's Trademarks were registered long before the Disputed Domain Names and their existence would have been revealed by a simple trademark search;
- The Complainant also claims that the Respondent willingly entered a pattern of behavior by registering several domains reproducing the Complainant's earlier Trademarks. According to the Complainant, such pattern shows not only knowledge, but also the Respondent's will to damage the Complainant and is a further evidence of bad faith.

Therefore, according to the Complainant, the Respondent had knowledge of the Complainant's Trademarks when registering the Disputed Domain Names, and the Respondent is unfairly and intentionally taking advantage of the reputation and distinctiveness of the Complainant's earlier rights in order to mislead Internet users.

Finally, the Complainant requests that the Disputed Domain Names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue - Consolidation of Complaint against multiple respondents

According to the information provided by the Registrar, the Disputed Domain Names <carrefour-pass-client.com> and <carrefours-client-pass.com> are registered in the name of Didier Moula and the Disputed Domain Name <carrefour-client-pass.com> is registered in the name of "Ben Jena".

The Complainant has submitted a request to have the Complaint filed against these two registrants and claims that they are one and the same Respondent.

Paragraph 10(e) of the Rules gives to the Panel the power to decide on the requests to consolidate multiple domain name disputes. The issue has been considered by various prior UDRP panels who have reached a general consensus. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

Based on the evidence produced and on the review of each domain name, the Panel decides to allow the consolidation in light of the overall circumstances and in particular:

- The fact that the Domain Names <carrefours-client-pass.com> and <carrefour-client-pass.com> were registered over a period of two days and through the same registrar and name server under different names;
- Similar pattern of use of the Disputed Domain Names whereby none of them point to active content and all Domain Names trigger an error message;
- Similar naming pattern of the Disputed Domain Names where they all reproduce the Trademarks of the Complainant with the addition of the very same term “client”;
- The fact that none of the named registrants has challenged the Complainant’s contention that the registrants of all three Disputed Domain Names are in fact one and same person.

Therefore, the Panel accedes to the Complainant’s request for consolidation.

6.2. Substantive Analysis

A. Identical or Confusingly Similar

First of all, the Panel finds that the Complainant has provided evidence that it has prior rights on the Trademarks.

Then, the Panel notices that the Disputed Domain Names are all composed of the identical reproduction of the Trademarks in their entirety, to which has been added (i) the term “client”, which is descriptive, (ii) the addition of the letter “s” at the end of the term “carrefour” for one of the Disputed Domain Names (ii) as well as the generic Top-Level Domain (gTLD) “.com”.

The addition of the descriptive term “client” does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8,

The addition of the letter “s” at the end of the term “carrefour” in the Disputed Domain Name <carrefours-pass-client.com> does not avoid a finding a confusing similarity since it is almost unnoticeable and is a typical instance of typo-squatting.

Furthermore, the gTLD “.com” does not affect the confusing similarity between the Disputed Domain Names and the Complainant’s earlier Trademarks.

Consequently, the Panel finds that the Disputed Domain Names are confusingly similar to the Complainant’s Trademarks. The first element of the paragraph 4(a)(i) of the Policy is thus fulfilled.

B. Rights or Legitimate Interests

Numerous UDRP panels have found that, even though the Complainant bears the general burden of proof under paragraph 4(a) (ii) of the UDRP, the burden of production shifts to the Respondent once the Complainant makes a *prima facie* showing that the Respondent lacks rights or legitimate interests. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Hence, after the Complainant has made *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Names, it will be deemed to have satisfied paragraph 4(a)(ii) of the UDRP when the Respondent fails to submit a response.

In this case, the Complainant brings forward the following elements:

- No license or authorization has been granted by the Complainant to the Respondent;
- The Respondent is not known under the Disputed Domain Names, nor does it have any trademark rights on the term “CARREFOUR”; and

- The Respondent has not used the Disputed Domain Names for a *bona fide* offering goods and services and the Disputed Domain Names all resolves to an error page.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names.

The Respondent has not responded to the Complainant's contentions and therefore not proved otherwise.

Given these circumstances, the Panel finds that the second element of the paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Complainant's Trademarks have been recognized as well-known by numerous previous UDRP panels. See in particular: *Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#); *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2610](#); *Carrefour v. rabie nolife*, WIPO Case No. [D2019-0673](#); *Carrefour v. Jane Casares, NA*, WIPO Case No. [D2018-0976](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#); *Carrefour v. Tony Mancini, USDIET Whoisguard, Inc.*, WIPO Case No. [D2015-0962](#); *Carrefour SA v. dreux denis / denis cloud*, WIPO Case No. [D2021-0276](#).

Accordingly, the Panel considers that the Respondent could not plausibly ignore the existence of the Complainant's Trademarks at the time the Disputed Domain Names were registered, all the more since according to the information disclosed by the Registrar, the Respondent resides in France.

The Panel finds that the registrations were therefore made in bad faith.

As to the use of the Disputed Domain Names in bad faith, the Panel has evidenced that the Disputed Domain Names all resolve to an error "suspended" page. This use constitutes a passive holding that can clearly be regarded as an indication of bad faith use.

The lack of use of the Disputed Domain Names in working corresponding websites, and the Respondent's failure to reply to the Complainant's contentions give no other basis to the Panel to believe that the Disputed Domain Names might conceivably be put to good faith use.

Taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the Disputed Domain Names by the Respondent that would not be illegitimate.

Consequently, the Panel finds that the Disputed Domain Names were registered and used in bad faith, so that the third and final element of the Policy is met.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(a) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Names, <carrefour-client-pass.com>, <carrefour-pass-client.com>, <carrefours-client-pass.com> be transferred to the Complainant.

/Isabelle Leroux/

Isabelle Leroux

Sole Panelist

Date: April 5, 2022