

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. lion miytu  
Case No. D2022-4012

### **1. The Parties**

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

The Respondent is lion miytu, France.

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

The disputed domain name <clesecure-regioncarrefour1.online> is registered with EuroDNS S.A. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2022. On October 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 27, 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 the same day, 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 October 28, 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 October 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on November 23, 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 leader in retail and pioneer of the concept of hypermarkets.

With a turnaround of 78.6 billion euros in 2020, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40) and operates more than 13,000 stores in over 30 countries. The Complainant receives 1.3 million visits to all of its online shopping websites every day, and has more than 320,000 employees. In addition, the Complainant offers other services in the fields of travel, banking, insurance or ticketing services.

The Complainant owns numerous trademarks, including the following ones:

- International trademark CARREFOUR, No. 351147, registered on October 2, 1968, duly renewed and designating services in international classes 1 to 34;
- International trademark CARREFOUR, No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42.

In addition, the Complainant owns various domain names that contain the trademark CARREFOUR and notably the domain name <carrefour.com>, registered in 1995.

The disputed domain name <clesecure-regioncarrefour1.online> was registered on March 22, 2022, and either resolves to a blank page or a page that triggers to a safety warning notice.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant claims that the disputed domain name is (i) identical or confusingly similar to its earlier trademarks, (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.

(i) The Complainant claims that the disputed domain name is confusingly similar to its trademarks, since the disputed domain name reproduces its CARREFOUR trademark together with the generic terms "cle", "secure" and "-region", and the number "1". For the Complainant, this combination may mislead the Complainant's customers searching for the "Clé secure" service – a system which allows Internet users to make their transactions online safer by imposing reinforced confirmation (two-factor authentication).

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name and the Complainant has not licensed or otherwise permitted the Respondent to use its trademark CARREFOUR. Furthermore, the Complainant contends that the fact that the disputed domain name is redirecting to a blank page which triggers a safety warning indicates that the Respondent has not used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services.

(iii) Due to the strong reputation and well-known character of the Complainant and its trademarks, the Complainant considers that the Respondent must have had the CARREFOUR trademarks in mind when registering the disputed domain name. The Complainant also claims that the Respondent's use of the disputed domain name is made in bad faith, as it aims to cause confusion among Internet users as to the source of the disputed domain name. Furthermore, the Complainant claims that the fact that the disputed domain name leads to a blank page that triggers a safety warning constitutes bad faith under the doctrine of "passive holding".

The Complainant requests the transfer of the disputed domain name.

## **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 name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

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

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence to establish its rights in earlier trademarks CARREFOUR that are widely known as have been recognized as such by previous UDRP decisions.

The Complainant's trademark CARREFOUR is incorporated in its entirety in the disputed domain name together with the term "clesecure-region" and the number "1". The addition of such terms does not prevent a finding of confusing similarity under the first element. Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

Thus, the requirement of paragraph 4(a)(i) of the Policy is met.

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

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable 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; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) 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 or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the

disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

As aforementioned, there was no response from the Respondent. Following the disclosure of the Respondent's identity, the Complainant asserts that the Respondent is not sponsored by or affiliated with the Complainant in any way. And the Complainant has not given the Respondent any permission to use the Complainant's trademarks in any manner, including in domain names. Furthermore, the Respondent is not commonly known as a business or individual by the disputed domain name.

The fact that the disputed domain name is resolving either to a blank page or a page that triggers a safety warning notice is further evidence that the Respondent has not been using or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services. There is no evidence either suggesting that the Respondent has been making a legitimate noncommercial, or fair use of the disputed domain name.

The Panel observes that the Complainant's use and registration of the trademarks long predates the registration of the disputed domain name, as a result, the burden of products shifts to the Respondent to establish its rights or legitimate interests over the disputed domain name. In the absence of a response, the Respondent has failed to rebut the Complainant's *prima facie* case of the Respondent's lack of rights or legitimate interests.

Moreover, the nature of the disputed domain name is inherently misleading, and carries a risk of an implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

Thus, in the absence of a response, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Complainant has submitted evidence that its activity and trademarks are widely known and enjoy a worldwide reputation that has been acknowledged by previous panels.

Thus, the registration of a domain name that comprises such a well-known and anterior trademark suggests that the Respondent had the Complainant's name and trademark in mind when registering the disputed domain name. All the more so since the Complainant has over 1,000 operating locations in the country, France, where the Respondent is located.

As a result, the Panel finds that the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities at the time of registration of the disputed domain name.

Such registration of a disputed domain name that is confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, and the Panel finds that such registration 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 disputed domain name. Such use cannot be considered a good-faith use.

In addition, the Panel notes that the fact that the disputed domain name triggers a safety warning page constitutes an indication that the disputed domain name may be used for fraudulent purposes (see section 3.4 of the [WIPO Overview 3.0](#)).

As previous UDRP panels have considered, a passive holding situation constitutes bad faith when associated with other elements such as the degree of notoriety of the mark or lack of response, as is the case here (see section 3.3 of the [WIPO Overview 3.0](#)).

For all of the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being 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 <clesecure-regioncarrefour1.online> be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: December 7, 2022