

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. elhadj fall, Carrefour Accessories
Case No. D2022-4489

1. The Parties

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

The Respondent is elhadj fall, Carrefour Accessories, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <carrefouraccessories.com> is registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 24, 2022. On November 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 24, 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 (Contact Privacy Inc. Customer 0165628554) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 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 December 6, 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 December 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 29, 2022.

The Center appointed Erica Aoki as the sole panelist in this matter on January 12, 2023. 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 a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968. With a turnaround of 76 billion euros in 2018, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40). 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 has therefore been using trademark CARREFOUR worldwide for more than 50 years and has its trademark registered in several jurisdictions. For example, the Complainant owns the International trademark for CARREFOUR No. 351147, registered on October 2, 1968.

The disputed domain name was registered on November 4, 2022 and resolves to a website offering smartphones and smartphone accessories for sale.

5. Parties' Contentions

A. Complainant

The Complainant owns several hundred trademark rights worldwide in the CARREFOUR term, as shown in Annex 4-1 of the Complaint. In particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name: International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 1 to 34 (Annex 4-2); International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42 (Annex 4-3); United States trademark CARREFOUR No. 6763415, registered on June 21, 2022, designating services in international class 35 (Annex 4-4). In addition, the Complainant is also the owner of numerous domain names identical to, and comprising, its trademarks, both within generic and national top-level domains. For instance, <carrefour.com> has been registered since 1995 (Annex 5-1).

The Complainant's trademark rights have been recognized by several UDRP panels, in successful complaints brought by the Complainant against various other respondents: "the disputed domain names incorporate the entirety of the Complainant's well-known trademarks CARREFOUR", *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#), "the CARREFOUR element of the Mark is distinctive and well known, as was recognized in a number of UDRP decisions", *Carrefour SA. v. Reliant-web Domain Admin / Jean Marie Grolleau / Joanne Elvert*, WIPO Case No. [D2021-2389](#), "Complainant and its CARREFOUR Mark have an international reputation."

The Complainant contends that the disputed domain name reproduces the Complainant's trademarks. Therefore, the Complainant contends that the disputed domain name is identical or confusingly similar to its well-known trademark since it contains the trademark Carrefour in its entirety, combined with the additional term "accessories", and that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

Further, the Complainant contends that the inclusion within the disputed domain name of the term "accessories" can only heighten the likelihood of confusion, since the Complainant has been selling accessories (mobile phone accessories, car accessories, etc.) for many years and through its websites. The CARREFOUR trademarks of the Complainant are immediately recognizable within the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

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

A. Identical or Confusingly Similar

Based on the facts in the present proceeding, this Panel finds that the disputed domain name identically adopts the Complainant's CARREFOUR trademarks in which the Complainant has rights under Policy, paragraph 4(a)(i). The Complainant has established its rights in the CARREFOUR trademarks through registration and use.

The Panel further finds that there is no doubt that the disputed domain name is confusingly similar to the Complainant's registered trademark, as the disputed domain name includes the Complainant's mark entirely, with only the addition of the word "accessories" to the CARREFOUR trademark, which does not prevent a finding of confusing similarity (see section 1.8 of the WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

The Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization. See section 2.3 of the [WIPO Overview 3.0](#).

There is no evidence on record that 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 Complainant's trademark.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant and has not received any authorization to use any of the Complainant's trademarks. The Respondent is using the disputed domain name opportunistically since it resolves to a website offering smartphones and smartphone accessories for sale in an attempt by the Respondent to capitalize on the goodwill associated with the Complainant's well-known CARREFOUR trademark and an attempt to mislead Internet user into believing that the products offered for sale come from the Complainant. Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case, *i.e.* that the Respondent has no rights or legitimate interests in the disputed domain name, under Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy. The Panel finds that the Respondent has used the disputed domain name to intentionally attract Internet users by opportunistically capitalize on the goodwill associated with the Complainant's well-known CARREFOUR trademark and an attempt to mislead Internet user into believing that the products offered for sale come from the Complainant. Such use is considered use in bad faith. See section 3.4 of the [WIPO Overview 3.0](#).

The Complainant's trademark was registered long before the registration of the disputed domain name and it is evident from the Respondent's use of the disputed domain name that the Respondent knew of the Complainant's Carrefour trademark when registering the disputed domain name.

The Panel finds that it is most likely that the Respondent was aware of the Complainant's rights in the Carrefour trademark at the time the disputed domain name was registered, indicating that such registration was made in bad faith.

Based on the evidence presented, the Panel also finds that the Respondent's use of the disputed domain name constitutes bad faith under Policy, paragraph 4(b)(iv).

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith under Policy, paragraph 4(a)(iii).

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 <carrefouraccessories.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: January 26, 2023