

## **ADMINISTRATIVE PANEL DECISION**

Carrefour S.A. v. Albert Giubaziani  
Case No. DGE2020-0001

### **1. The Parties**

Complainant is Carrefour S.A., France, represented by IP Twins S.A.S., France.

Respondent is Albert Giubaziani, Georgia.

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

The disputed domain name <carrefour.ge> (the “Domain Name”) is registered with Caucasus Online LLC (the .GE Registry).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2020. On March 13, 2020, the Center transmitted by email to the .GE Registry a request for registry verification in connection with the Domain Name. On March 16, 2020, the .GE Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on March 24, 2020 providing the registrant and contact information disclosed by the .GE Registry, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 25, 2020.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .GE Domain Name Dispute Resolution Policy (the .GE Policy), the Rules for .GE Domain Name Dispute Resolution Policy (the .GE Rules), and the WIPO Supplemental Rules for .GE Domain Name Dispute Resolution Policy (the Supplemental Rules).

In accordance with the .GE Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on April 1, 2020. In accordance with the .GE Rules, paragraph 5, the due date for Response was April 20, 2020. Respondent sent to the Center ten email communications between March 25 and April 1, 2020, without addressing the merits of the Complaint. The Center notified the Commencement of Panel Appointment on April 27, 2020. The Center sent an email communication to the Parties on May 1, 2020.

The Center appointed Robert A. Badgley as the sole panelist in this matter on May 4, 2020. 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 .GE Rules, paragraph 7.

#### **4. Factual Background**

Based in France, Complainant has owned and operated hypermarket retail stores since 1968. Today, Complainant operates more than 12,000 CARREFOUR retail stores in 30 countries, including a store in Tbilisi, Georgia in 2015. Complainant's annual turnover in 2018 was EUR 76 billion. Complainant also offers travel, banking, insurance, and ticketing services under its trademark CARREFOUR.

Complainant holds numerous trademark registrations for CARREFOUR in various jurisdictions, including International trademark No. 1010661, registered April 16, 2009, and Georgia trademark 23772, registered June 11, 2013. Various panels in prior cases under the Uniform Domain Name Dispute Resolution Policy (the "UDRP") and the .GE Policy have found the CARREFOUR trademark to be "very well-known". See, e.g., *Carrefour v. Tool Domains*, WIPO Case No. DGE2018-0002 ("the Complainant's Trademark and activities are well known throughout the world").

According to the WhoIs database, the Domain Name was registered on May 27, 2019. At the time the Complaint was filed, the Domain Name resolved to a rudimentary web page which, according to Complainant, displays "an image of a competitor of the Complainant in Georgia". The web page also states "20\$K," which, according to Complainant, is an offer to sell the Domain Name for USD 20,000.

In various email communications to the Center, however, Respondent asserts that he has owned the Domain Name since 2013. Respondent cites to the Wayback Machine ("www.archive.org") for evidence that he owned the Domain Name as far back as 2013. The Panel's review of the Wayback Machine suggests that someone owned the Domain Name between 2013 and 2018, and that the web pages to which the Domain Name resolved during that period were rudimentary or under construction.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has established all three elements required under the .GE Policy for a transfer of the Domain Name.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions. Rather, in a series of brief emails to the Center, Respondent generally stated that he was willing to "resolve" this dispute, was not well versed in terms of what was required under the .GE Policy, and that he deserved compensation for his alleged (though undocumented) expenses incurred over the years in connection with the Domain Name.

#### **6. Discussion and Findings**

Paragraph 4(a) of the .GE Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

- (iii) the Domain Name has been registered or is being used in bad faith.

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

The Panel concludes that Complainant has rights in the trademark CARREFOUR through registration and use demonstrated in the record. The Panel also finds that the Domain Name is identical to Complainant's mark.

Complainant has established .GE Policy paragraph 4(a)(i).

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

Pursuant to paragraph 4(c) of the .GE Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not articulated, much less proven, any *bona fide* reason why he registered a Domain Name identical to an internationally renowned trademark, a mark registered in his own country. Given Respondent's failure to articulate a good-faith basis for registering the Domain Name, and given the fame of Complainant's longstanding trademark (which is identical to the Domain Name), carrying the nature of the Domain Name a high risk of implied affiliation with the Complainant, the Panel finds that Respondent has no rights or legitimate interests vis-à-vis the Domain Name.

Complainant has established .GE Policy paragraph 4(a)(ii).

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

Paragraph 4(b) of the .GE Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion

with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith within the meaning of the above-quoted .GE Policy paragraph 4(b)(i). The Panel finds it more likely than not that Respondent had Complainant's well-known trademark in mind when registering the Domain Name. The mark is registered in Respondent's country, and Complainant operates at least one CARREFOUR retail store in Georgia. Respondent has not denied having knowledge of the CARREFOUR mark at the time he registered the Domain Name.

As respects bad faith use, the Panel agrees on this record that Respondent's "20\$K" content on its web page more likely than not reflects an attempt by Respondent to solicit a bid to purchase the Domain Name for USD 20,000 or some other amount well in excess of Respondent's documented out-of-pocket expenses associated with the Domain Name. Respondent has not denied the allegation in the Complaint that he was seeking to sell the Domain Name at a profit. Indeed, Respondent's somewhat indecipherable emails to the Center routinely stress that he wishes to be compensated for surrendering the Domain Name.

Complainant has established .GE Policy paragraph 4(a)(iii).

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the .GE Policy and 15 of the .GE Rules, the Panel orders that the Domain Name <carrefour.ge> be transferred to Complainant.

**Robert A. Badgley**

Sole Panelist

Date: May 11, 2020