

ADMINISTRATIVE PANEL DECISION

Carrefour SA. v. Name Redacted

Case No. D2022-1533

1. The Parties

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

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <carrefourpagofacil-pass.info> is registered with Ligne Web Services SARL (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2022. On April 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 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 May 16, 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 May 16, 2022.

On May 16, 2022, the Center transmitted an email in English and French to the Parties regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the disputed domain name is French. The Complainant confirmed its request that English be the language of the proceeding on May 16, 2022. The Respondent did not comment on the language of the proceeding.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 May 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2022. On June 15 and 16, 2022, the Center received two email communications from a third party claiming identity theft. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2022.

The Center appointed Edoardo Fano as the sole panelist in this matter on July 28, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to the Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondent.

4. Factual Background

The Complainant is Carrefour SA, a French retail Group operating with more than 12,000 stores and e-commerce sites in more than 30 countries. The Complainant owns several trademark registrations for CARREFOUR and CARREFOUR PASS, among which the following ones:

- International Trademark Registration No. 351147 for CARREFOUR, registered on October 2, 1968, for goods in the Classes 1 to 34;
- International Trademark Registration No. 353849 for CARREFOUR, registered on February 28, 1969, for services in Classes 25 to 41;
- International Trademark Registration No. 719166 for CARREFOUR PASS, registered on August 18, 1999, for services in Class 36.

The Complainant operates on the Internet at several websites, its main website being “www.carrefour.com”.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on December 17, 2021, and it resolves to an inactive website.

5. Parties’ Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its trademarks CARREFOUR and CARREFOUR PASS, as the disputed domain name wholly contains the Complainant’s

trademarks with the addition of the generic terms “pago” and “facil” in the Spanish language.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademarks within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant’s trademarks CARREFOUR and CARREFOUR PASS are distinctive and internationally known. Therefore, the Respondent targeted the Complainant’s trademarks at the time of registration of the disputed domain name and the Complainant also contends that the passive holding of the disputed domain name qualifies as bad faith registration, as it is not possible to conceive of any plausible actual or contemplated use of the disputed domain name by the Respondent that would not be illegitimate, leading therefore to the infringement of the Complainant’s trademarks.

B. Respondent

The Respondent has made no reply to the Complainant’s contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn (see, e.g., *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. [D2003-0109](#); *SSL International Plc v. Mark Freeman*, WIPO Case No. [D2000-1080](#); *Altavista Company v. Grandtotal Finances Limited et al.*, WIPO Case No. [D2000-0848](#); and *Confédération Nationale du Crédit Mutuel, Caisse Fédérale du Crédit Mutuel Nord Europe v. Marketing Total S.A.*, WIPO Case No. [D2007-0288](#)).

On June 15 and 16, 2022, the Center received two email communications from the legal representative of a third party with the same name of the apparent Respondent, alleging that its client had suffered fraudulent payments made by unknown people using its Carrefour Pass Card, had not registered any domain name and therefore there must have been an error or mistaken identity.

6. Discussion and Findings

6.1 Language of Proceeding

According to paragraph 11(a) of the Rules, the Panel decides that the language of the proceeding will be English. The language of the Registration Agreement of the disputed domain name is French. The Complainant has requested English to be the language of the proceeding since the disputed domain name contains generic Spanish terms and the Complainant is able to communicate either in English or French, but not in Spanish, while the Respondent is likely not able to effectively communicate in French, so that English would serve as a fair “neutral ground” in this Complaint. The Panel finds that it would be not only unnecessary but also unfair, both economically and timewise, to request the Complainant to translate the Complaint. Furthermore, the Respondent did not comment to the Complainant’s request to use English. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1.

6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of the trademarks CARREFOUR and CARREFOUR PASS both by registration and acquired reputation and that the disputed domain name is confusingly similar to the trademarks CARREFOUR and CARREFOUR PASS.

Regarding the addition of the terms “pago” (a term meaning “pay” in Spanish) and “facil” (a term meaning “easy” in Spanish) and a hyphen “-”, the Panel notes that it is now well established that the addition of terms or letters to a domain name does not prevent a finding of confusing similarity between the disputed domain name and the trademark (see, e.g., *Aventis Pharma SA., Aventis Pharma Deutschland GmbH v. Jonathan Valicenti*, WIPO Case No. [D2005-0037](#); *Red Bull GmbH v. Chai Larbthanasub*, WIPO Case No. [D2003-0709](#); and *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#)). The addition of the terms “pago” and “facil” and a hyphen “-” does not therefore prevent the disputed domain name from being confusingly similar to the Complainant’s trademarks. See [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level-Domain (“gTLD”), in this case “.info”, is ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain name is confusingly similar to the Complainant’s trademarks, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular but without limitation:

- “(i) before any notice to you 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 (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 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.”

According to paragraph 4(a) of the Policy, the Complainant has the burden of proving the three elements of the Policy. However, satisfying the burden of proving a lack of the Respondent’s rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(ii) of the Policy is potentially quite difficult, since proving a negative circumstance is always more complicate than establishing a positive one. As such, it is well accepted that it is sufficient for the Complainant to make a *prima facie* case that the

Respondent has no rights or legitimate interests in the disputed domain name in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in its Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. It asserts that the Respondent, who is not currently associated with the Complainant in any way, is not commonly known by the disputed domain name and is not making a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore finds that paragraph 4(a)(ii) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that “[...] for the purposes of paragraph 4(a)(iii) of the Policy, 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 [the Respondent has] registered or has 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 the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

(ii) that [the 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 [the Respondent has] engaged in a pattern of such conduct; or

(iii) that [the 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, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent’s] 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 [the Respondent’s] website or location or of a product or service on [the Respondent’s] website or location”.

Regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s trademarks CARREFOUR and CARREFOUR PASS is clearly established and the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the disputed domain name.

As regards the use in bad faith of the disputed domain name, which currently resolves to an inactive website, the Panel considers that bad faith may exist even in cases of so-called “passive holding”, as found in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the circumstances of this case, the Panel finds that such passive holding amounts to use in bad faith. See, [WIPO Overview 3.0](#), section 3.3.

Furthermore, the Panel notes the apparent identity theft in this matter, and further considers that the nature of the disputed domain name, which is almost identical to the Complainant's trademarks with the mere addition of the terms "pago" ("pay" in English) and "facil" ("easy" in English), further supports a finding of bad faith. See, [WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain name in bad faith.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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 <carrefourpagofacil-pass.info> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: July 29, 2022