

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Carrefour Ofertas, Minha loja  
Case No. D2023-4273

### **1. The Parties**

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

The Respondent is Carrefour Ofertas, Minha loja, Brazil.

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

The disputed domain name <carrefourofertas.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 13, 2023. On October 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Contact Privacy Inc., Customer 0168612069) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 16, 2023, 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 25, 2023.

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 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 16, 2023.

The Center appointed Ana María Pacón as the sole panelist in this matter on November 22, 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 multinational retail company headquartered in France. It was founded in 1959. It operates in more than 30 countries worldwide and has thousands of stores and 384,000 employees worldwide.

The Complainant is the owner of several trademarks for CARREFOUR including in Brazil where the Respondent appears to be based. The Complainant's CARREFOUR trademarks include the following:

- International Trademark registration No. 351147 for CARREFOUR, registered on October 2, 1968, duly renewed and designating goods in international classes 01 to 34.

- International Trademark registration No. 353849 for CARREFOUR, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42.

The Complainant is also the owner of several domain names reflecting its CARREFOUR trademark, including <carrefour.com> registered since 1995 and <carrefour.es> registered since 2000.

The Domain Name was registered on September 13, 2023. The Domain Name resolves to a single webpage displaying among others "This store is unavailable".

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that the Domain Name is confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the Domain Name, and that the Domain Name has been registered and is being used in bad faith. The Complainant requests the transfer of the Domain Name.

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

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

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

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “ofertas”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Then there is the addition of the gTLD (general Top-Level Domain) “.com”. As is generally accepted, the addition of a gTLD such as “.com” is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test.

Based on the available record, the Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

While the Panel notes that the Domain Name apparently matches the Respondent’s disclosed name, “Carrefour Ofertas”, the Panel notes such information is simply a fraudulent attempt to legitimize the registration of the Domain Name and the Respondent cannot claim to be commonly known by such Domain Name. Rather, the Domain Name reproduces the CARREFOUR trademark in its entirety with the addition of the descriptive term “ofertas”, meaning “offers” in Portuguese or Spanish and thus directly associated with the Complainant’s retail industry. Therefore, the Panel finds that such composition carries a risk of implied affiliation with the Complainant and thus, cannot constitute fair use nor confer onto the Respondent rights or legitimate interests in the Domain Name. [WIPO Overview, 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant has substantiated the fact that its trademark CARREFOUR, which has been registered and used for years, now benefits from a high level of public awareness worldwide.

Earlier UDRP decisions have acknowledged the Complainant's trademark reputation:

- *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2610](#);

- *Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#):  
"CARREFOUR is a well-known trademark in France and elsewhere."

A number of UDRP decisions have arrived at a finding that registering a domain name with knowledge of another company's rights in the disputed domain name and with intention to divert traffic, may serve as evidence of bad faith registration (see *Digital Spy Limited v. Moniker Privacy Services and Express Corporation*, WIPO Case No. [D2007-0160](#); *PepsiCo, Inc. v. "null", aka Alexander Zhavoronkov*, WIPO Case No. [D2002-0562](#); and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)). This Panel finds it implausible that the registration of the Domain Name took place in good faith.

Thus, the Panel does not accept, on the evidence available to it, that the Respondent had no knowledge of the CARREFOUR trademark when it registered the Domain Name.

It is further noted by the Panel that the Domain Name is not being actively used by the Respondent, and does not redirect to any active web page with substantive content.

It is a consensus view among UDRP panels that, with comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith.

The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

Examples of what may be cumulative circumstances found to be indicative of bad faith include the Complainant having a well-known trademark and no response to the Complaint having been filed. UDRP panels may draw inferences about whether a domain name is used in bad faith given the circumstances surrounding registration.

As stated in [WIPO Overview 3.0](#), section 3.3, there is a consensus view about "passive holding":

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

Additionally, the Panel notes that the given first name (Carrefour) and last name (Ofertas) of the Respondent as per the Registrar cannot correspond to its real identity but rather an illicit attempt to legitimize the Domain Name registration. Further, such provision of false information further supports a finding of bad faith.

The Panel further finds that passive holding of the Domain Name cannot prevent a finding of bad faith in this case.

Based on the available record, the Panel concludes that the Complainant has established the third element of the Policy.

## 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 Domain Name <carrefourofertas.com> be transferred to the Complainant.

*/Ana María Pacón/*

**Ana María Pacón**

Sole Panelist

Date: December 6, 2023