

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. albert pierre
Case No. D2022-1740

1. The Parties

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

The Respondent is albert pierre, France.

2. The Domain Name and Registrar

The disputed domain name <carrefourpass-es.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 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 27, 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 27, 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 May 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 20, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on June 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 the French company Carrefour. Carrefour is one of the worldwide leaders in retail and a pioneer of the concept of hypermarkets back in 1968.

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 also offers travel, banking, insurance or ticketing services.

The Complainant owns several trademark registrations in many countries including *inter alia* the following trademarks:

- International trademark CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 01 to 34;
- International trademark CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42; and
- International trademark CARREFOUR PASS No. 719166, registered on August 18, 1999, duly renewed, and designating services in international class 36.

The Complainant is also the owner of the domain name:

- <carrefour.com> registered in 1995.

The disputed domain name was registered on March 23, 2022, and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that (i) the disputed domain name is confusingly similar to the Complainant's trademarks; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name.

(i) The Complainant claims that the disputed domain name is highly confusingly similar to its well-known trademarks, since the disputed domain name reproduces its CARREFOUR trademarks together with the generic term "pass-es". For the Complainant, the addition of "-es" after "carrefourpass" can only heighten the likelihood of confusion since users can perceive this registration as a domain name used by the Complainant specifically for its Spanish consumers (as "es" is the two letters country code abbreviation for Spain).

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name: the Complainant has not licensed or otherwise permitted the Respondent to use its trademark CARREFOUR. The Respondent is not commonly known by the disputed domain name. Finally, the fact that the disputed domain name resolves to an inactive page prevents any proof of *bona fide* or even fair use of the disputed domain name.

(iii) Due to the strong reputation and well-known character of the trademarks CARREFOUR, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademarks at the

time the disputed domain name was registered. The Complainant also claims that the Respondent's use of the disputed domain name is made in bad faith, as the Respondent acquired and is using the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's earlier marks. The Complainant also stresses that the Respondent has been using a privacy protection service in an attempt to escape the present proceeding, which constitute, for the Complainant, additional inferences of bad faith. Finally, for the Complainant, it is not possible to think of any future use of the disputed domain name that may be done by the Respondent in good faith.

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 submitted evidence, which incontestably and conclusively establishes rights in the trademarks CARREFOUR and CARREFOUR PASS.

The disputed domain name wholly incorporates the Complainant's trademarks CARREFOUR and CARREFOUR PASS, which may be sufficient to determine that the disputed domain name is confusingly similar to the Complainant's trademark.

In addition, the Panel finds that the addition of the term "es", which could be interpreted as a reference to Spain or, in other words, one of the countries in which the Complainant is established, does not prevent a finding of confusing similarity under the first element.

Indeed, as long established, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), in this case the term "es", does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

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

B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known under the disputed domain name, nor owns any registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way. The construction of the disputed domain name, incorporating the entirety of the Complainant's CARREFOUR and CARREFOUR PASS trademarks along with the geographical acronym "es", carries a risk of implied affiliation that cannot constitute fair use.

The Panel does not find any indications that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or has rights or legitimate interests in any other way in the disputed domain name. On the contrary, the disputed domain name resolves to an inactive page.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not proved otherwise.

Given these circumstances the Panel finds that the second element of the Policy has been satisfied.

C. Registered and Used in Bad Faith

With regards to the registration of the disputed domain name, the Panel finds that at the time of the registration, the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities. Indeed, given the fact that the Complainant's CARREFOUR trademarks are well known worldwide and distinctive, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademarks.

This finding is emphasized by the fact that the disputed domain name incorporates the Complainant's trademark CARREFOUR PASS in its entirety to which the term "es" is added, which refers to one of the countries where the Complainant has its activity. For this Panel, it is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when he registered the disputed domain name.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

As for use of the disputed domain name in bad faith, given the circumstances described in the Complaint, the documentary evidence provided by the Complainant, and the brief verification carried out by the Panel of the website associated with the disputed domain name, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of use in bad faith.

Indeed, the disputed domain name is hence not used in relation with an active website. It has been recognized that inaction (*i.e.* passive holding) in relation to a domain name registration can, in certain circumstances, constitutes use of a domain name in bad faith (see [WIPO Overview 3.0](#), section 3.3).

Taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. Further, the Respondent has not provided any rebuttal or participated in this proceeding by any means, failing to provide any credible good faith explanation as to the Respondent's registration of the disputed domain name that incorporates the Complainant's well-known trademarks.

Therefore, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the 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, <carrefourpass-es.com>, be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: July 7, 2022