

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. cesar jimenez  
Case No. D2022-4384

### **1. The Parties**

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

The Respondent is cesar jimenez, Spain.

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

The disputed domain name <passcarrefour.online> is registered with Hostinger, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 17, 2022. On November 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 18, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 November 21, 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 November 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 13, 2022.

The Center appointed Adam Samuel as the sole panelist in this matter on December 18, 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 a French corporation that operates hypermarkets. It owns a number of trademarks for the name CARREFOUR including International trademark number 351147, registered on October 2, 1968 and an International trademark for CARREFOUR PASS, number 719166, registered on August 18, 1999. The Complainant promotes its business using the domain name <carrefour.com>, registered by the Complainant on October 25, 1995 and <pass-carrefour.com> on October 6, 2019.

The disputed domain name was registered on October 18, 2022. Access is currently blocked to the website to which it resolves by a scam warning: "Deceptive site ahead. Attackers on passcarrefour.online may trick you into doing something dangerous like installing software of revealing your personal information (for example, passwords, phone numbers, or credit cards)."

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

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

The disputed domain name incorporates the Complainant's trademark CARREFOUR and is identical to the Complainant's trademark CARREFOUR PASS with the two words simply inverted. The addition of the generic word "pass" and the inversion of the elements of the Complainant's trademark does nothing to diminish the likelihood of confusion. The use of the lower-case letter format and the addition of the generic top-level domain ("gTLD") ".online" are not significant in determining whether the disputed domain name is identical or confusingly similar to the Complainant's trademarks.

The Respondent does not own any trademarks in the names PASSCARREFOUR or PASS CARREFOUR. There is no evidence that the Respondent has been commonly known by the disputed domain name. The Respondent has reproduced the Complainant's earlier registered trademarks in the disputed domain name without any license or authorization from the Complainant. The apparently malevolent underlying use of the disputed domain name cannot be considered *bona fide*, legitimate or fair. Since the adoption and extensive use of its trademarks by the Complainant predates by far the disputed domain name's registration, the burden is on the Respondent to establish the Respondent's rights or legitimate interests that the Respondent may have had in the disputed domain name.

The Complainant and its trademarks are so widely known that it is inconceivable that the Respondent was unaware of the Complainant or its earlier rights. The Complainant is active in Spain with more than 200 hypermarkets and 150 supermarkets and several stores in the city where the Respondent is located. The Respondent chose the disputed domain name because of its similarity to the Complainant's trademarks in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the disputed domain name. By maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademark in the corresponding domain name. The current use of the disputed domain name in connection with a website containing potentially harmful material capable of being used for fraudulent purposes is not good faith use.

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

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

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 only difference between the disputed domain name and the Complainant's trademark CARREFOUR PASS is the inversion of the two words and the addition of the generic Top-Level Domain ("gTLD") ".online". Similarly, the disputed domain name consists of the Complainant's trademark CARREFOUR preceded by the word "pass" and the gTLD ".online".

The gTLD is irrelevant here as it is a standard registration requirement. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The word "pass" when added to the Complainant's trademark CARREFOUR does not prevent the recognition of the Complainant's trademark in the disputed domain name. As, Section 1.8 of the [WIPO Overview 3.0](#) says:

"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

The same is true of the inversion of the two words in the Complainant's CARREFOUR PASS trademark.

For these reasons, the Panel concludes the disputed domain name is confusingly similar to both the Complainant's trademarks CARREFOUR PASS and CARREFOUR.

### B. Rights or Legitimate Interests

The Respondent is not called "Passcarrefour" or anything similar. There is no evidence that the Complainant has ever authorized the Respondent to use its trademarks. The Respondent does not appear to have used the disputed domain name for any legitimate purpose. The "deceptive site ahead" warning suggests the contrary.

Based on the available record, where the Complainant has made out a preliminary case that the Respondent lacks rights or legitimate interests, and in the absence of any response on this point, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

### C. Registered and Used in Bad Faith

The disputed domain name consists of the Complainant's well-known trademarks with the inversion of the words involved in one and the addition of the word "pass" in front of the other. The disputed domain name resolves to what appears to be a "Deceptive site", posing a risk to Internet users.

The Respondent clearly knew of the Complainant when it registered the disputed domain name and sought to use the disputed domain name primarily to attract for commercial gain or a more nefarious purpose

Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. All this is evidence of registration and use in bad faith in accordance with paragraph 4(b)(iv) of the Policy.

For all these reasons, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith.

## **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 <passcarrefour.online> be transferred to the Complainant.

*/Adam Samuel/*

**Adam Samuel**

Sole Panelist

Date: December 29, 2022