

## **ADMINISTRATIVE PANEL DECISION**

**Carrefour SA v. Leomar Brambilla and Lincoln De Sosua Ribeiro**  
**Case No. D2023-0360**

### **1. The Parties**

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

The Respondent is Leomar Brambilla, Brazil, and Lincoln De Sosua Ribeiro, Brazil.

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

The disputed domain names <carrefourblacksolucoes.com> and <carfoursolucoesblack.com> (the “Domain Names”) are registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2023. On January 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On January 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Contact Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 31, 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 February 1, 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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on March 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 leading global retailer offering supermarkets and hypermarkets under the trade mark CARREFOUR (the “CARREFOUR Mark”) around the world. The Complainant operates more than 12,000 stores in over 30 countries, employs over 384,000 people and has 1.3 million daily unique visitors in its stores.

The Complainant is the owner of multiple trade mark registrations for the CARREFOUR Mark in various jurisdictions around the world, including International trade mark registrations 351147 and 353849, registered in 1968 and 1969 respectively, for goods and services in classes 1 to 42, designating countries including Belgium, Spain and Italy.

The Domain Names were registered on January 6, and January 10, 2023. The Domain Names resolve to websites (the “Respondent’s Websites”) apparently operated by third parties, that contain technical information unrelated to any apparent meaning of the Domain Names. For example one of the Respondent’s Websites is a default page used to test the operation of the Apache2 server after installation on Ubuntu systems and contains technical information about the operation of Ubuntu.

#### **5. Parties’ Contentions**

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

The Complainant makes the following contentions:

- (i) that the Domain Names are identical or confusingly similar to the Complainant’s CARREFOUR Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Names; and
- (iii) that the Domain Names have been registered and are being used in bad faith.

The Complainant is the owner of the CARREFOUR Mark, having registered the CARREFOUR Mark in various jurisdictions around the world. The Domain Names each reproduce the CARREFOUR Mark along with the generic terms “black” and “solucoes” (a Portuguese word meaning “solutions”) and the generic Top-Level Domain (“gTLD”) “.com” which do not distinguish the Domain Names from the CARREFOUR Mark.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Names. The Respondent is not commonly known as the Domain Names nor does the Respondent have any authorization from the Complainant to register the Domain Names. The Respondent is not making a legitimate noncommercial or fair use of the Domain Names. Rather the use of the Domain Names is corresponding to the Complainant’s CARREFOUR Mark for essentially default websites providing technical information unconnected to the Complainant is not a *bona fide* offering of goods and services, fair use or an otherwise legitimate noncommercial purpose.

The Domain Names were registered and are being used in bad faith. Given the reputation of the Complainant and the nature of the Domain Names, it is likely that the Respondent had knowledge of the CARREFOUR Mark at the time of registration. The Domain Names are being used that will undoubtedly take advantage of any confusion between the Domain Names and the Complainant’s CARREFOUR Mark.

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

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

## 6. Discussion and Findings

### 6.1. Preliminary Matter: Consolidation of Multiple Registrants

As identified in section 1 above there are two named registrants of the Domain Names. UDRP proceedings are normally brought against a single respondent. However, paragraph 10(e) of the Rules states that in certain circumstances a panel may consolidate multiple domain name disputes. The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2, states:

“Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of

- (i) the registrants’ identity(ies) including pseudonyms,
- (ii) the registrants’ contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities,
- (iii) relevant IP addresses, name servers, or webhost(s),
- (iv) the content or layout of websites corresponding to the disputed domain names,
- (v) the nature of the marks at issue (*e.g.*, where a registrant targets a specific sector),
- (vi) any naming patterns in the disputed domain names (*e.g.*, <mark-country> or <mark-goods>),
- (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue,
- (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s),
- (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s),
- (x) any (prior) pattern of similar respondent behaviour, or
- (xi) other arguments made by the complainant and/or disclosures by the respondent(s).”

Based on the information before it, the Panel is prepared to allow the consolidation of the proceedings against the named registrants on the basis that the Domain Names are under common control. The Domain Names were registered four days apart, with the same Registrar. They share the same name servers and share the same unusual structure being the well-known CARREFOUR Mark and the terms “black” and “solucoes” (a Portuguese word meaning “solutions”). It would be implausible for two unconnected entities to register domain names consisting of such an unusual combination of words with the same Registrar four days apart.

Finally, the Panel notes that none of the named registrants have denied any association with the other or objected to the consolidation of the proceedings requested by the Complainant. The Panel finds that, on the balance of probabilities, the Domain Names are subject to common control and that the consolidation would

be fair and equitable to all the Parties. As such, for the purposes of the decision, the Panel has and will refer to the named registrants of the Domain Names as a single Respondent.

## 6.2. Substantive Matters

### A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights and each Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the CARREFOUR Mark, having registrations for the CARREFOUR Mark as a trade mark in various jurisdictions around the world.

Each of the Domain Names incorporates the CARREFOUR Mark with the terms "black" and "solucoes" (a Portuguese word meaning "solutions") and a gTLD, which can be discounted as an essential element of any domain name. Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the [WIPO Overview 3.0](#).

The Panel finds that each of the Domain Names is confusingly similar to the Complainant's CARREFOUR Mark.

### B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(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."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Names or to seek the registration of any domain name incorporating the CARREFOUR Mark or a mark similar to the CARREFOUR Mark. There is no evidence that the Respondent is commonly known by any of the Domain Names or any similar name.

The use of the Domain Names for the Respondent's Websites is not a legitimate noncommercial fair use or a *bona fide* offering of goods and services. The Respondent's Websites appear to be default technical websites created by third parties containing information unrelated to any possible meaning of the Domain Names. There is no explanation as to why a party would register a domain name corresponding to the well-

known CARREFOUR Mark for the purpose of resolving to pages providing technical information apparently unconnected to the Respondent and the Complainant. In the absence of any explanation by the Respondent for its actions, the Panel on the balance of probabilities finds that the Respondent's Websites are essentially holding pages created to give the false impression of legitimacy to the Respondent's actions in registering the confusingly similar Domain Names. The Panel finds that the Respondent's conduct does not, absent further explanation, amount to use for a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the Domain Names.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has failed to rebut that *prima facie* case and establish that it has rights or legitimate interests in the Domain Names under the Policy. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names under paragraph 4(a)(ii) of the Policy.

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

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 trade mark 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) the respondent has registered the domain name in order to prevent the owner of the trade mark 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) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 (Policy, paragraph 4(b)).

The Panel finds that the Respondent was aware of the Complainant and its reputation in the CARREFOUR Mark at the time the Domain Names were registered. The Complainant's CARREFOUR Mark is extraordinarily well known globally, with 1.3 million daily unique visitors to its stores. The Respondent has provided no explanation, and none is immediately obvious, why an entity would register two Domain Names that wholly incorporate the CARREFOUR Mark and two dictionary words unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its CARREFOUR Mark. In these circumstances, the Respondent's conduct in registering the Domain Names when it was aware of the Complainant's rights and lacked rights or legitimate interests of its own amounts to registration in bad faith.

As discussed under the heading "Rights or Legitimate Interests" the Panel is unpersuaded that the Respondent's Websites, or any other aspect of the Respondent's conduct, provides a basis to conclude that the Respondent has registered and used the Domain Names in good faith. Rather, based on the nature of the Domain Names, the fame of the CARREFOUR Mark, the lack of legitimate use by the Respondent thus far and the failure by the Respondent to participate in this proceeding or otherwise provide any explanation of its conduct, the Panel finds that the use of the Domain Names for the Respondent's Websites as described above is in bad faith. Moreover, the Panel is prepared to infer, based on the conduct of the Respondent, that the Domain Names are most likely presently being held pending use as websites or email

addresses that will make reference to the Complainant in an illicit or unapproved manner for the Respondent's commercial gain.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Names in bad faith under paragraph 4(a)(iii) 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 Names <carrefourblacksolucoes.com> and <carrefoursolucoesblack.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: April 3, 2023