

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Jamel Samet, Alex Bingo
Case No. D2023-3215

1. The Parties

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

The Respondents are Jamel Samet, Germany and Alex Bingo, Greece.

2. The Domain Names and Registrar

The disputed domain names <pass-carrefoures.com> and <pass-carrefour-zona.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2023. On July 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrants and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 9, 2023, providing the registrants 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 August 10, 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 August 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 14, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on September 28, 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, Carrefour, is a worldwide leader in retail and hypermarkets with more than 12,000 stores in 30 countries worldwide and 384,000 employees.

The Complainant owns numerous trademarks for CARREFOUR, *inter alia*, the International Registration No. 351147, in classes 1 to 34, registered on October 2, 1968, the International Registration No. 353849, in classes 35 to 42, registered on February 28, 1969, the European Union Trademark No. 5178371, registered on August 30, 2007. The Complainant further owns the International Registration No. 719166 for the trademark CARREFOUR PASS in class 36, registered on August 18, 1999.

The Complainant also holds several domain names, including the domain names <carrefour.com>, <pass-carrefour.com> and <pass.carrefour.es>.

The disputed domain names <pass-carrefoures.com> and <pass-carrefour-zona.com> were registered on July 16, 2023, and July 18, 2023, respectively.

The record shows that the disputed domain names are not associated with an active website. At the time of the original filing of the Complaint, they resolved to the same default landing page provided by the web server. After the filing of the amended Complaint, both disputed domain names are resolving to the same error page.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name <pass-carrefoures.com> is confusingly similar to the CARREFOUR and CARREFOUR PASS trademarks in which the Complainant has rights, because it incorporates these trademarks in their entirety, and the inversion of the elements "pass" and CARREFOUR and the addition of the ending "es" and of the generic Top-Level Domain ("gTLD") ".com" are not sufficient to avoid confusing similarity.

With regard to the disputed domain name <pass-carrefour-zona.com>, the Complainant contends that it is confusingly similar to the CARREFOUR and CARREFOUR PASS trademarks in which the Complainant has rights, because it incorporates these trademarks in its entirety, and the inversion of the elements "pass" and CARREFOUR and the addition of the word "zona" and of the generic Top-Level Domain ("gTLD") ".com" are not sufficient to avoid confusing similarity.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents have not been authorized by the Complainant to use these trademarks, are not commonly known by the disputed domain names, and there is no evidence of the Respondents' use, or demonstrable preparation to use, the disputed domain names in connection with a *bona fide* offering of goods and services, because both disputed domain names do not resolve to an active website but at the time of the filing of the Complaint resolved to the same web server's default page.

The disputed domain names were registered in bad faith because it is obvious that the Respondents had knowledge of both of the Complainant and its famous trademark CARREFOUR at the time they registered the disputed domain names. In particular, it cannot be a mere coincidence that the disputed domain names incorporate also the CARREFOUR PASS trademark and are also confusingly similar to the Complainant's <pass-carrefour.com> and <pass.carrefour.es> domain names.

The disputed domain names are being used in bad faith because the Respondents have intentionally attempted to attract, for commercial gain, Internet users to their websites by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondents' websites and the goods and services marketed therein or even worse to conduct fraudulent activities such as phishing practices, considering that when entering the disputed domain names the browser's phishing and malware protection feature triggers a warning email.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural issue – Consolidation of Multiple Respondents

The Complainant requested the consolidation of the Respondents. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2 provides that "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."

Based on the available record, the Panel notes that (i) the two disputed domain names resolve to same landing page; (ii) the websites at the disputed domain names are hosted on the same webhosting server with an IP address; and (iii) the disputed domain names were registered with the same Registrar using the same privacy service within a short period of time. The Panel further notes that the Respondents have raised no objection to the Complainant's request for consolidation.

Considering the above, the Panel finds that it is more likely than not that the disputed domain names are subject to the common control, and that consolidation would be fair and equitable to all Parties and enhance efficiency. Therefore, the Panel grants the Complainant's consolidation request.

6.2 Substantive Issues

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain names are identical or confusingly similar to the 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 names; and
- (iii) the disputed domain names has been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has trademark rights by virtue of the registrations it owns for its CARREFOUR and CARREFOUR PASS trademarks.

The Panel notes that the disputed domain names <pass-carrefoures.com> and <pass-carrefour-zona.com> incorporate the CARREFOUR and CARREFOUR PASS trademarks in their entirety. The inversion of the elements “pass” and CARREFOUR and the addition of the word “zona” and of the ending “es” in the respective domain names, do not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.8.

The addition of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain names are confusingly similar to the Complainant’s marks CARREFOUR and CARREFOUR PASS.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent’s to use the trademarks CARREFOUR and CARREFOUR PASS, and that before notice of the dispute, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in good faith, considering that when the original Complaint was filed, both disputed domain names resolved to an inactive site. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent’s lacks rights or legitimate interests in the disputed domain names. For its part, the Respondent’s did not provide a Response and thus failed to provide any explanations as to any rights or legitimate interests.

Furthermore, the nature of the disputed domain names <pass-carrefoures.com> and <pass-carrefour-zona.com>, comprising the Complainant’s trademarks and the inversion of the terms “pass” and CARREFOUR, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its CARREFOUR and CARREFOUR PASS trademarks are famous or well-known.

In the view of the Panel, noting that the Complainant’s trademarks predate the registration of the disputed domain names and the nature of the disputed domain names, it is inconceivable that the Respondents could have registered the disputed domain names without knowledge of the Complainant’s well-known trademarks, particularly considering the existence of the Complainant’s <pass-carrefour.com> and <pass.carrefour.es> domain names. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain names resolve to an inactive site. However, the Respondent’s passive holding of these disputed domain names does not prevent a finding of use in bad faith in this case (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). In this regard, the Panel notes the reputation of the Complainant’s trademark, and the Respondent’s failure to submit a response or provide any evidence of actual or contemplated good-faith use. Furthermore, it is inconceivable that the Respondent could make any good faith use of the disputed domain names.

The Panel thus finds that the disputed domain names were registered and are being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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 names <pass-carrefoures.com> and <pass-carrefour-zona.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: October 12, 2023