

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Berta, Berta
Case No. D2023-3293

1. The Parties

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

The Respondent is Berta, Berta, Spain.

2. The Domain Name and Registrar

The disputed domain name <carrefourpass-reembolso.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2023. On August 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 2023, 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 (Undisclosed, Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 August 2, 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 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 1, 2023.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on September 12, 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 French company founded in 1959. The Complainant is a worldwide leader in the retail field and a pioneer of the concept of hypermarkets back in 1968. The Complainant also offers travel, banking, insurance and ticketing services. The Complainant operates in more than 30 countries, and employs 384,000 employees worldwide. The Complainant totalizes 1.3 million daily visitors in its online stores. In 2021, the Complainant generated a turnover of EUR 82 billion.

The Complainant owns, *inter alia*, the following trademarks:

TRADEMARK	Territory	Registration Number	Registration Date	Classes
CARREFOUR	International	351147	October 2, 1968	1 to 34
CARREFOUR	International	353849	February 28, 1969	35 to 42
CARREFOUR PASS	International	719166	August 18, 1999	36
CARREFOUR PASS	Italy	867469	May 17, 2002	9, 16, 35, 36
CARREFOUR PASS	France	99780481	March 12, 1999	36
CARREFOUR PASS	Singapore	T9903152H	April 1, 1999	36

The Complainant is also the owner of numerous domain names containing the trademark CARREFOUR and used for its business activities, such as <carrefour.com>, registered on October 25, 1995, <carrefour.it>, registered on April 6, 1998, and <carrefour.es>, registered on November 14, 2000.

The Complainant owns accounts on the most important social media, such as Facebook, LinkedIn, and Instagram, with high number of followers.

The disputed domain name was registered on July 11, 2023, and resolves to an inactive website, which, as substantiated in the Complaint, triggers an Internet browser security alert.

5. Parties' Contentions

A. Complainant

The Complainant maintains that the disputed domain name is confusingly similar to its trademarks CARREFOUR and CARREFOUR PASS as it incorporates them entirely, and the relevant marks are recognizable within the disputed domain name.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant did not grant any license or authorization to incorporate its trademarks in the disputed domain name, or to use its trademarks in any manner whatsoever. As the Complainant and its trademarks are renown, any legitimate use of the disputed domain name is unconceivable. The disputed domain name does not resolve to an active website but to a webpage containing a threatening alert, which indicates that the relevant website could be used for some fraudulent activity. The use of a domain name for illegal activities cannot confer rights or legitimate interests to the Respondent.

Lastly, the Complainant contends that its trademarks enjoy extensive reputation and that it is not plausible that the Respondent was unaware of the Complainant's trademarks when it registered the disputed domain name. Rather, the Respondent had in mind the Complainant's business and trademarks and selected the disputed domain name to attract Internet users searching for the Complainant to its website. The disputed domain name does not lead to an active website, but to a page displaying an alert message. This alert message informs that the website associated with the disputed domain name could mislead users, inducing them to install a software or reveal his/her personal or financial information, such as passwords, phone or credit card numbers. Furthermore, the Respondent's data indicated at the time of the registration of the disputed domain name are imprecise, which is contrary to the obligations contained in the registration agreement. In view of all these circumstances, the fact that the Respondent is passively holding the disputed domain name cannot prevent a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademarks CARREFOUR and CARREFOUR PASS. These trademarks are included in their entirety in the disputed domain name. The addition of the term "reembolso", separated from the Complainant's CARREFOUR PASS mark by a hyphen, does not prevent a finding of confusing similarity, as the Complainant's trademarks are clearly recognizable within the disputed domain name. Under section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), "[w]here 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". Previous panels have also recognized that the incorporation of a trademark in its entirety or in its dominant feature is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark.

In light of the above, the Panel finds that the first condition under the Policy is met.

B. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge 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 shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the instant case, the Panel notes that the Complainant has no relation with the Respondent and that the Complainant did not authorize the Respondent to incorporate its CARREFOUR and CARREFOUR PASS trademarks in the disputed domain name. The Respondent is not the Complainant's licensee and the Respondent does not appear to be commonly known by the disputed domain name.

The disputed domain name, which consists of the Complainant's trademark CARREFOUR PASS followed by a hyphen and the word "reembolso", meaning "reimbursement" in English, impersonates or suggests sponsorship or endorsement by the Complainant. In fact, the Panel notes that the trademark CARREFOUR PASS of the Complainant is registered for financial services in class 36. Noting the general powers of a panel, articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, the Panel has conducted some

limited searches to investigate the Complainant's use of the CARREFOUR PASS trademark (see section 4.8 of the [WIPO Overview 3.0](#)). The Panel has also found that this trademark designates the Complainant's credit card services allowing the reimbursement of the amount spent in the following month, or later in several installments. Hence, the term "reembolso" relates to the feature of the Complainant's services.

Thus, it is highly likely that, when facing the disputed domain name, Internet users looking for the Complainant and its CARREFOUR PASS services would consider that the dispute domain name originates from the Complainant and not from a third party.

The disputed domain name leads to a page alerting visitors of a potential security threat in accessing the related website. This use cannot amount to a *bona fide* offering of goods or services or to a legitimate noncommercial or fair use of the disputed domain name. The use of a domain name for potential phishing or other illegal activity cannot confer to its owner rights or legitimate interests in the domain name.

In view of the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden of production now shifts to the Respondent to demonstrate that it owns rights or legitimate interests in the disputed domain name. The Respondent has chosen not to file a Response and therefore has waived its right to contest the Complainant's allegations.

Accordingly, the Panel is satisfied that the second condition under the Policy is met.

C. Registered and Used in Bad Faith

The Panel agrees with the Complainant that the Respondent was well aware of the Complainant's trademarks when it registered the disputed domain name. The Complainant's trademark is distinctive in its field of business, renowned and associated with the Complainant. Hence and considering the following, the choice of the disputed domain name cannot be the result of a mere coincidence. Furthermore, the disputed domain name incorporates the trademark CARREFOUR PASS, which is a specific trademark that the Complainant uses in the financial field. Not only has the Respondent included this trademark in the disputed domain name, but also it has placed it alongside the term "reembolso", which is a term related to the services offered by the Complainant under its CARREFOUR PASS trademark. All these circumstances show, in an unequivocal way, that the Respondent knew very well the Complainant and its trademarks when it registered the disputed domain name, and decided to target these trademarks for its own benefit.

The disputed domain name does not resolve to an active website but triggers a message of security alert. Passive use of the disputed domain name cannot prevent a finding of the Respondent's bad faith, considering all the circumstances of this case. Not only the disputed domain name includes two well-known trademarks of the Complainant, and the Respondent's attempt to create a likelihood of confusion with the Complainant's marks by choosing to add a term related to the Complainant's services in the disputed domain name, but also it seems that the Respondent registered the disputed domain name with the intention to use it for some malevolent purpose according to the security alert shown on the website. This use amounts to bad faith.

The circumstances highlighted above show that the Respondent has tried to ride on the good will of the Complainant's trade mark and its intent to use the disputed domain name in a way that may be abusive or otherwise detrimental to the Complainant. Furthermore, the Respondent chose not to file a response to rebut the Complainant's arguments and demonstrate its good faith in the registration and use of the disputed domain name.

In light of the foregoing, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith. Therefore, also the third and last condition of the Policy is 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 name, <carrefourpass-reembolso.com>, be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: September 26, 2023