

## ADMINISTRATIVE PANEL DECISION

Carrefour SA v. alex pascal  
Case No. D2023-4320

### 1. The Parties

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

The Respondent is alex pascal, France.

### 2. The Domain Name and Registrar

The disputed domain name <www-carrefourpass.com> is registered with Wild West Domains, LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 18, 2023. On October 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 23, 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 October 24, 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 October 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 15, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on November 23, 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

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a multinational retail company headquartered in France.

The Complainant is the owner of several trade mark registrations incorporating the term “Carrefour” including in France where the Respondent appears to be based. The Complainant’s trade marks include the following:

- International Trade Mark registration No. 351147 for CARREFOUR, registered on October 2, 1968;
- International Trade Mark registration No. 719166 for CARREFOUR PASS, registered on August 18, 1999.

The Complainant is also the owner of several domain names reflecting its CARREFOUR trade mark, such as <carrefour.com> registered in 1995 and <pass-carrefour.com> registered in 2019.

The disputed domain name was registered on October 3, 2023.

The disputed domain name resolves to a login page of a web hosting control panel.

There is no information known on the Respondent apart from the details as they appear on the Whois record.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the CARREFOUR and CARREFOUR PASS trade marks in which the Complainant has rights, as the disputed domain name incorporates these trade marks entirely together with the prefix “www” (and the generic term “pass”, if the CARREFOUR trade mark is considered), separated by a hyphen. The Complainant considers that such addition does not prevent the confusing similarity between the disputed domain name and the Complainant’s trade mark.

The Complainant asserts that the Respondent has no rights in “carrefour” or “carrefourpass” and that the Respondent is not commonly known by the disputed domain name. The Complainant contends that the Respondent is not authorised by the Complainant to use its CARREFOUR or CARREFOUR PASS trade marks. Furthermore, the Complainant contends that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services as the disputed domain name resolves to a login page of a web hosting control panel. Further, the Complainant submits that the disputed domain name is inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant’s CARREFOUR trade mark and the Complainant refers to prior UDRP panels’ findings that the Complainant’s CARREFOUR trade mark is well known. The Complainant also stresses that the CARREFOUR trade mark registrations significantly predate the disputed domain name registration. In terms of use of the disputed domain name in bad faith, the Complainant contends that the current use does not constitute use of the disputed domain name in good faith and that should the disputed domain name be

considered to be used passively, this would not cure the Respondent's bad faith under the doctrine of passive holding. Finally, the Complainant asserts that it cannot think of any future use of the disputed domain name by the Respondent that could be in good faith. The Complainant concludes that the disputed domain name has been registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the CARREFOUR and CARREFOUR PASS trade marks are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "www-" when considering the CARREFOUR PASS trade mark, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the trade mark for the purposes of the Policy. Similarly, the same applies with the consideration of the above addition and "pass" with respect the CARREFOUR trade mark. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control 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 on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Here, there is no indication that the Respondent is known by the disputed domain name. In addition, the use of the disputed domain name to merely resolve to a login page of a web hosting control panel cannot qualify as either use of the disputed domain name (or demonstrable plans for such use) with a *bona fide* offering or a legitimate noncommercial fair use given the overall circumstances of the present case including the significant renown of the Complainant's trade mark in the Respondent's country of residence and the absence of Response.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that the Respondent, at the time of registration of the disputed domain name, must have been aware of the Complainant's trade mark CARREFOUR reproduced in the disputed domain name given (i) the renown of the CARREFOUR trade mark, as acknowledged by previous UDRP panels, (ii) the fact that the Respondent appears to be based in France where the Complainant is headquartered and where its goodwill is probably higher than anywhere else, and (iii) the fact that the disputed domain name was registered relatively recently and many years after the registration of the trade mark CARREFOUR.

As for use of the disputed domain name in bad faith, it does not point to an active website but merely to a login page of a web hosting control panel. In the face of the Complainant's Complaint, the Respondent has not attempted to justify its registration or use of the disputed domain name.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding including (i) the significant online visibility of the Complainant's CARREFOUR trade mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use and (iii) the implausibility of any good faith use to which the disputed domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Moreover, given the Complainant's use of the domain name <pass-carrefour.com>, the Panel finds that the Respondent's registration of the disputed domain name was a deliberate attempt to mislead Internet users seeking the Complainant's website at the above-mentioned domain name.

Based on the available record, the Panel finds the third element of the Policy has been established.

### **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 <www-carrefourpass.com> be transferred to the Complainant.

*/Vincent Denoyelle/*

**Vincent Denoyelle**

Sole Panelist

Date: December 6, 2023