

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Ricardo Pinto  
Case No. D2024-1051

### **1. The Parties**

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

The Respondent is Ricardo Pinto, Brazil.

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

The disputed domain name <carefour-brasil.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2024. On March 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 12, 2024, 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 (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 April 18, 2024.

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 March 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 8, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on April 14, 2024. 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 based public limited company founded in 1959 and is a pioneer of the concept of hypermarkets. The Complainant operates more than twelve thousand stores and is listed on the index of the Euronext Paris Stock Exchange.

The Complainant is the owner of numerous registered trademark registrations around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration	Classes
<b>CARREFOUR</b>	191353	Benelux Office for Intellectual Property, Spain, and Italy	March 9, 1956	Class 3
<b>CARREFOUR</b>	005178371	European Union	August 30, 2007	Classes 9, 35, and 38
<b>CARREFOUR LINKS</b> 	1609621	Brazil	June 8, 2021	Class 35

The Complainant is also the owner of many domain names as <carrefour.eu>, <carrefour.fr> and <carrefour.com.br>, which resolve to the Complainant's official website for its European Union, French, and Brazilian markets, respectively.

The Complainant and its trademarks have been declared as well known by a number of decisions rendered under the Policy.

The disputed domain name was registered on February 5, 2024 and, at the time of filing the Complaint, it resolved to the Registrar's parking page.

#### 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 the following:

##### I. Identical or Confusingly Similar

That the disputed domain name bears a close visual and phonetic resemblance to the Complainant's trademarks, with a misspelling of the trademark CARREFOUR as "carefour", and that said typosquatting conduct does not dispel the risk of confusion.

That the inclusion of the term “brasil” in the disputed domain name does not diminish its overall similarity with the Complainant’s trademarks.

That the Complainant’s trademarks are well-known in the retail sector and that the use of the misspelled term “carefour” could mislead consumers into believing that the disputed domain name is somehow related to the Complainant.

## **II. Rights or Legitimate Interests**

That the Respondent is using the Complainant’s trademarks within the disputed domain name without authorization or license.

That the disputed domain name resolves to a default webpage provided by the Registrar, indicating that the Respondent is passively holding the disputed domain name.

That the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services.

That the Respondent’s lack of response to the Complaint may contribute to the presumption of a lack of legitimate interest and an inability to counter the Complainant’s arguments.

That the lack of an active use of the disputed domain name, combined with the similarity to the Complainant’s trademarks, raises concerns regarding the Respondent’s potential misuse or intent to attract Internet users for commercial gain.

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

That the Complainant’s trademarks are so renowned that the Respondent should have had awareness of their existence at the time of registering the disputed domain name. That the Respondent had the Complainant’s trademarks in mind when registering the disputed domain name.

That the Respondent is passively holding the disputed domain name because it resolves to a default webpage provided by the Registrar. That this may represent a waiting game for future use to capitalize on the reputation of the Complainant’s trademarks.

That the intentional misspelling of the term “carefour” in the disputed domain name may imply an attempt to create confusion, for commercial gain.

## **B. Respondent**

The Respondent did not reply to the Complainant’s contentions and is therefore in default. No exceptional circumstances explaining the default have been put forward.

## **6. Discussion and Findings**

Given the Respondent’s default, the Panel may decide this proceeding based on the Complainant’s undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3).

## **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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of several trademarks for products and services for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name comprises a misspelling of the Complainant's trademarks, with the omission of one "r". This is a typical case of typosquatting. The Panel decides that the disputed domain name is confusingly similar to the Complainant's trademark CARREFOUR. See [WIPO Overview 3.0](#), section 1.9.

The addition of the geographical term "brasil" (the jurisdiction where the Respondent has declared to be domiciled), and the hyphen between the term "carefour" and said geographical term, does not prevent a finding of confusing similarity between the disputed domain name and the trademark.

In light of the above, 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.

As previously mentioned, the Complainant owns several trademarks around the world, including the trademarks CARREFOUR and CARREFOUR LINKS (the latter registered in Brazil, where the Respondent has declared to reside). This Panel agrees with the findings of previous panels in the sense that the trademark CARREFOUR is well known (see, for example, *Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#)). Thus, the Panel finds that, on the balance of probabilities, the Respondent knew the Complainant and its trademarks at the time of registering the disputed domain name.

The Complainant has stated that it has never authorized the Respondent to use the Complainant's trademarks in the disputed domain name by any means. In addition, the Respondent did not prove in any way that he had any right to or interest in the Complainant's trademarks.

Therefore, 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 notes that the Respondent used the Complainant's trademark in the disputed domain name, which was registered on February 5, 2024, long after the Complainant registered and began using its CARREFOUR trademarks. The Respondent's bad faith registration is evidenced by the fact that (1) the CARREFOUR trademarks are internationally well known; (2) the disputed domain name is confusingly similar to the Complainant's trademarks and is also similar to the Complainant's registered domain names; and (3) the Respondent is in default and has not shown any rights to or legitimate interests in the disputed domain name. On the uncontroverted evidence, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Previous panels appointed under the Policy have found that the mere registration by an unauthorized party of a domain name that is identical or confusingly similar to a well-known trademark, can constitute bad faith in itself (see section 3.1.4 of the [WIPO Overview 3.0](#), see also *Toyota Jidosha Kabushiki Kaisha d/b/a Toyota Motor Corporation; Toyota Motor Sales, U.S.A., Inc., and Toyota Motor Sales De Mexico, S. De R.L. de C.V. v. Salvador Cobian*, WIPO Case No. [DMX2001-0006](#), and *Ferrari S.p.A. v. Ms. Lee Joohee (or Joo-Hee)*, WIPO Case No. [D2003-0882](#)). This is so in the present case.

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. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing his identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness, reputation and well-known nature of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 disputed domain name <carefour-brasil.com> be transferred to the Complainant.

*/Kiyoshi Tsuru/*

**Kiyoshi Tsuru**

Sole Panelist

Date: April 28, 2024