

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Foster William  
Case No. D2024-1339

### **1. The Parties**

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

The Respondent is Foster William, Albania.

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

The disputed domain names <carrefour-partner.cc> and <carrefour-partner.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 29, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 2024, 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 5, 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 April 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 1, 2024.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on May 8, 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 group and a leading global retailer. The Complainant has over 321,000 employees throughout the world. With turnover of almost EUR 80.7 billion in 2019, over half of which was generated outside France, Carrefour today has 12,225 stores in over 30 countries. The net sales in 2023 amounted to EUR 83.3 billion.

The Complainant is the owner of several trademarks for CARREFOUR (“CARREFOUR trademark”), including:

- International Trademark Registration CARREFOUR No. 351147, registered on October 2, 1968, inter alia designated for Benelux, Italy, and Monaco; and
- International Trademark Registration CARREFOUR No. 353849, registered on February 28, 1969, inter alia designated for Croatia, Spain, and Hungary.

The Complainant is also owner of several domain names including the designation “carrefour”, such as the domain name <carrefour.com>, registered on October 25, 1995.

The disputed domain names <carrefour-partner.cc> and <carrefour-partner.com> were registered on February 20, 2024. The Complainant has provided evidence showing that the disputed domain name <carrefour-partner.cc> resolved to an active website displaying the CARREFOUR trademark and that the Respondent has used the disputed domain name to induce people to register or log on to this website. At the time of the decision, both disputed domain names resolve to an error 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.

On the first element of the Policy, the Complainant claims that the disputed domain names are identical or highly confusingly similar to the Complainant’s CARREFOUR trademark. The disputed domain names reproduce the CARREFOUR trademark in its entirety. The CARREFOUR trademark appears in first position and is clearly recognizable as such, separated from the second term “partner” by a hyphen. The addition of the descriptive term “partner” does not sufficiently distinguish the disputed domain names from the CARREFOUR trademark. On the contrary, the adoption of this term is increasing the risk of confusion since this term is widely used by the Complainant in relation to its partnering companies.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names for the following reasons:

1. The Respondent has acquired no trademarks in the mark “carrefour” or the mark “carrefour partner” which could have granted the Respondent rights in the disputed domain names;
2. There is no evidence whatsoever that the Respondent has been commonly known by the disputed domain names as an individual, business, or other organization;
3. The Respondent reproduces the CARREFOUR trademark in the disputed domain names without any license or authorization from the Complainant. The Complainant has not authorized the use of its CARREFOUR trademark or terms similar thereto in the disputed domain names in any manner or form;

4. The Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain names in relation to a bona fide offering of goods or services. The disputed domain names are 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 names. In addition, in light of the extensive use of the CARREFOUR trademark, the Complainant sees no plausible use of the disputed domain names that would be legitimate fair and noncommercial; and
5. Since the adoption and extensive use of the CARREFOUR trademark predates by far the registration of the disputed domain names, the burden is on the Respondent to establish the Respondent's rights or legitimate interests the Respondent may have or prima facie case of the Respondent's lack of right or legitimate interest in the disputed domain names.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith, for the following reasons:

1. The Complainant and the CARREFOUR trademark were so widely used that it is inconceivable that the Respondent ignored the Complainant or its earlier rights. The Respondent necessarily had the Complainant's name and the CARREFOUR trademark in mind when registering the disputed domain names. The Respondent's choice of the disputed domain names cannot have been accidental and must have been influenced by the reputation of the Complainant and the CARREFOUR trademark;
2. It is highly likely that the Respondent chose the disputed domain names because of their identity with or similarity to trademarks in which the Complainant has exclusive rights and legitimate interest. This was most likely done in the hope and expectation that Internet users searching for the Complainant's products and services would instead come across the disputed domain names;
3. The CARREFOUR trademark significantly predates the registration date of the disputed domain names. In this regard, previous Panels have established that knowledge of the Complainant's intellectual property rights, including trademarks, at the time of registration of the disputed domain name, proves bad faith registration. A quick trademark search or search engine query – if really necessary – would have revealed to the Respondent the existence of the Complainant and the CARREFOUR trademark. In fact, the Complainant's fame and notoriety is also evidenced from a simple query on a search engine where the Respondent is located, which provides results related to the Complainant only, for both the terms "carrefour" and "carrefour partner";
4. The disputed domain name <carrefour-partner.com> resolves to an error page. The non-use of a domain name, including a blank page, does not prevent a finding of bad faith under the doctrine of passive holding. This doctrine should apply in view of the various factors of the case, including the reputation of the Complainant's trademarks and the implausibility of any good faith use to which the domain name may be put;
5. The disputed domain name <carrefour-partner.cc> resolves to a page displaying the Complainant's Trademarks. The Respondent has used the disputed domain names to induce persons affiliated with the Complainant in some way to "log-in" through a fraudulent "partner log-in" site that solicits personal information. The content of the sites suggests that the sites are intended to be used solely for commercial purposes, possibly as a phishing scheme using the famous CARREFOUR trademark to lure users to submit sensitive personal and financial information. The Complainant contends that the Respondent has intentionally attempted to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the CARREFOUR trademark. Not only do the disputed domain name include the Complainant's distinctive mark, but the Respondent has used the disputed domain name for a website that creates the impression that it is officially associated with the Complainant including by prominent use of the Complainant's mark/logo. It is therefore undoubtable that the Respondent set out to generate commercial gain by creating a likelihood of confusion with the CARREFOUR trademark; and

6. By simply maintaining the disputed domain names, the Respondent is preventing the Complainant from reflecting its trademarks in the corresponding domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, the term "partner") 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here, claimed fraud / phishing scheme regarding the disputed domain name <carrefour-partner.cc>, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. While the remaining disputed domain name (<carrefour-partner.com>) has not been put to any apparent use, such non-use clearly does not represent any bona fide offering and given its composition, the disputed domain name is such to carry a risk of implied affiliation to the Complainant, which cannot constitute fair use and thus cannot confide rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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 available record, the Panel finds the non-use of the disputed domain name <carrefour-partner.com> does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the CARREFOUR trademark, the composition of the disputed domain name, and the use to which the other nearly identical disputed domain name has been put, 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.

Panels have held that the use of a domain name for illegal activity, here, claimed fraud / phishing scheme regarding the disputed domain name <carrefour-partner.cc>, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name <carrefour-partner.cc> constitutes bad faith under the Policy.

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 names <carrefour-partner.cc> and <carrefour-partner.com> be transferred to the Complainant.

*/Christian Gassauer-Fleissner/*  
**Christian Gassauer-Fleissner**  
Sole Panelist  
Date: May 22, 2024