

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Porfirio Obando, Diego Gallego, Carrefour, Cristian Hernandez, Vicente Molina, Juan Navarrete, Batisto Perero, Consum S.L., Jerónimo Gonçalves, Pascual Blanco, Domingo Navarro, Jaime Soriano, Adrián Guzmán  
Case No. D2024-1518

### **1. The Parties**

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

The Respondents are Porfirio Obando, Spain, Diego Gallego, Carrefour, Spain, Cristian Hernandez, Spain, Vicente Molina, Spain, Juan Navarrete, Spain, Batisto Perero, Consum S.L., Spain, Jerónimo Gonçalves, Spain, Pascual Blanco, Spain, Domingo Navarro, Spain, Jaime Soriano, Spain, and Adrián Guzmán, Spain.

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

The disputed domain names <carrefour-express.fun>, <carrefouexpress.online>, <carrefour-express.shop>, <carrefour-express.site>, <carrefour-express.store>, <carrefouexpress.store>, <carrefour-express.website>, <carrefour-express.xyz>, <carrefour-market.cloud>, <carrefour-market.fun>, <carrefour-market.shop>, <carrefour-market.store>, <carrefour-market.tech>, <carrefour-market.website>, and <carrefour-market.xyz>, are registered with Hostinger Operations, UAB; and the disputed domain name <carrefour-market.co> is registered with Hosting Concepts B.V. d/b/a Registrar.eu (collectively the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 10, 2024. On April 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 12, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 April 15, 2024, with the registrant and contact information of the nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant sent

an email on April 16, 2024, requesting the addition of a domain name into the proceeding, and filed an amended Complaint on April 19, 2024. On April 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the additional disputed domain name. On April 24, 2024, the Registrar transmitted by email to the Center its verification confirming that the registrant is listed as the Respondent in the amended Complaint.

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 Respondents of the Complaint, and the proceedings commenced on April 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on May 17, 2024.

The Center appointed Adam Taylor as the sole panelist in this matter on May 27, 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, which generated revenue of some EUR 83 billion euros in 2022, has engaged in retail activities under the mark CARREFOUR since 1968.

The Complainant currently operates over 12,000 stores in more than 30 countries including 160 "Carrefour Market" supermarkets and 1,000 "Carrefour Express" supermarkets in Spain.

The Complainant owns many CARREFOUR-formative registered trade marks including figurative European Union trade mark No. 005405832 for CARREFOUR EXPRESS, registered on October 18, 2007, in classes 29, 30, 31, 32, 33, and 35, and European Union trade mark No. 6659643 for CARREFOUR MARKET, registered on December 18, 2008, in class 35.

The Complainant operates a website at "www.carrefour.com".

The disputed domain names were registered between February 23, 2024, and April 2, 2024.

The Respondents are collectively referred to hereafter as "the Respondent", unless it is necessary to refer to them separately.

There is no evidence or indication that the Respondent has used any of the disputed domain names for active websites.

#### **5. Parties' Contentions**

##### **A. Complainant**

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

##### **B. Respondent**

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are being used in bad faith.

### **Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that:

1. all of the disputed domain names follow a similar format in that they consist of the word "carrefour" plus either "market" or "express";
2. all of the disputed domain names were registered within an approximately 5-week period and all but one were registered through the same registrar;
3. all of the registrants are allegedly located in Spain and all use Gmail email addresses, often in a similar format;
4. none of the disputed domain names resolves to an active website; and
5. none of the registrants have come forward to dispute common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants in this single proceeding.

### **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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of one or other of the Complainant's two trade marks referred to in section 4 above is reproduced within each of the disputed domain names. Accordingly, the disputed domain names are identical to those marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 recognised 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.

As to paragraph 4(c)(i) of the Policy, the disputed domain names are inactive and therefore not being used for a bona fide offering of goods or services.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel considers that the following circumstances are indicative of passive holding in bad faith:

1. the distinctiveness and fame of the Complainant’s marks and the fact that the disputed domain names are all uniquely referable thereto;
2. the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use; and
3. the implausibility of any good faith use to which the disputed domain names may be put.

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 names, <carrefour-express.fun>, <carrefourexpress.online>, <carrefour-express.shop>, <carrefour-express.site>, <carrefour-express.store>, <carrefourexpress.store>, <carrefour-express.website>, <carrefour-express.xyz>, <carrefour-market.cloud>, <carrefour-market.fun>, <carrefour-market.shop>, <carrefour-market.store>, <carrefour-market.tech>, <carrefour-market.website>, <carrefour-market.xyz>, and <carrefour-market.co>, be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: June 10, 2024