

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. William Mendes

Case No. D2024-2153

### **1. The Parties**

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

The Respondent is William Mendes, Brazil.

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

The disputed domain name <blogviajescarrefour.com> is registered with CloudFlare, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 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 May 31, 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 June 3, 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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent sent email communications to the Center on June 14, and 19, 2024, and July 8, 2024.

The Center appointed Shwetasree Majumder as the sole panelist in this matter on July 9, 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 operates hypermarket stores under its mark CARREFOUR in several countries worldwide. The Complainant owns registrations for its mark CARREFOUR in several countries and details of few of such registrations are as below:

- International Registration No. 191353 for CARREFOUR, registered on March 9, 1956;
- European Union (EU) Registration No. 005178371 for CARREFOUR, registered on August 30, 2007; and
- Spanish Registration No. M2979447 for VIAJES CARREFOUR, registered on February 26, 2001

Panels in earlier UDRP cases have found the Complainant's mark CARREFOUR to be well known or famous mark. The Complainant owns several domain names including <carrefour.es> and <carrefour.com>, registered on November 14, 2000, and October 25, 1995, respectively.

According to the Whois records, the disputed domain name was registered on April 27, 2024. At the time of filing the Complaint, the Respondent's website "blogviajescarrefour.com", claims to be an architectural firm. However as on the date of this decision, the Respondent's website "blogviajescarrefour.com", is inactive and cannot be reached.

As disclosed by the Registrar, the Respondent is based in Brazil. Otherwise, no information is known about the Respondent.

#### **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 disputed domain name is confusingly similar to its mark CARREFOUR. The Complainant contends that the word "viajes" translates to 'travel' in Spanish and inclusion of the words 'blog' and "viajes" does not distinguish the disputed domain name from the Complainant's mark CARREFOUR. The Complainant argues that its trademark CARREFOUR is reproduced identically within the disputed domain name, in highly visible and recognizable position and hence the first element is satisfied. The Complainant states that past UDRP panels have consistently found that a domain name combining the mark CARREFOUR with the word "viajes", is confusingly similar to its trademark CARREFOUR. In support of this argument, the Complainant has cited and relied on past UDRP decisions.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Complainant states that the Respondent's website has no genuine service offerings and is incomplete and non-functional. The Complainant further argues that internet users are likely to assume that the disputed domain name is related to Complainant's travel services or is an official blog associated with its mark VIAJES CARREFOUR.

The Complainant argues that given the recognition and long use of its mark CARREFOUR, the Respondent knew or should have known of Complainant's existence at the time the disputed domain name was registered. The Complainant contends that factors such as incorporation of well-known trademark, non-functional website, false representation of business activity, all point to Respondent's bad faith.

## B. Respondent

The Respondent did not reply to the Complainant's contentions. The Respondent sent three emails to the Center including one on June 14, 2024, stating " I never used this site, it was just a WordPress standard installation, without any information. I was waiting for Cloudflare to respond, but they didn't give me any support, so I don't know if it's possible to transfer the domain. Either way, it's offline and I have no interest in keeping it up. Please tell me how I can help you"

In response to the Respondent's email, the Complainant shared the settlement form with the Respondent on June 19, 2024. The Respondent did not return the signed settlement form. In addition, on July 8, 2024 Respondent sent a communication indicating "Ok and how can this be solved?".

## 6. Discussion and Findings

As per paragraph 5(f) of the Rules where a respondent does not submit a formal response, in the absence of exceptional circumstances, the panel may decide the dispute based upon the Complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a formal response. A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy. Under paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements required under by a preponderance of evidence:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- 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 Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term "blog" 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 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 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.

The nature of the disputed domain name effectively suggests affiliation with the Complainant. The Panel concurs with the past UDRP panels that the Complainant’s mark CARREFOUR is a well-known mark. The disputed domain name is likely to be mistaken as the Complainant’s official blog associated with its mark VIAJES CARREFOUR.

In absence of a formal response from the Respondent and considering Respondent’s own admission that he has “never used this site,...”, the Panel cannot see how the Respondent can have rights or legitimate interests in the disputed domain name.

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 is using the disputed domain name misleadingly to divert Internet users to the Respondent’s website and to falsely create an association with the Complainant. The Panel is of the view that registration of the disputed domain name is an intentional attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark CARREFOUR and VIAJES CARREFOUR. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

Further, the Complainant’s mark CARREFOUR is a well-known mark and hence, the Respondent knew or should have known of the Complainant’s mark, at the time of registering the disputed domain name. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

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 <blogviajescarrefour.com> be transferred to the Complainant.

*/Shwetasree Majumder/*

**Shwetasree Majumder**

Sole Panelist

Date: July 22, 2024