

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Omar Geles
Case No. D2024-3069

1. The Parties

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

The Respondent is Omar Geles, United States of America (“United States”).

2. The Domain Names and Registrar

The disputed domain names <app-carrefourpass.com> and <carrefourpass-app.com> are registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. Also on July 26, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 29, 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 July 29, 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 August 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on September 6, 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 retailer (also offering banking, insurance and ticketing services) based in France. It developed the hypermarket concept in 1968 and is publicly listed on the Paris Stock Exchange. The Complainant operates more than 12,000 stores in more than 30 countries. With more than several hundred thousand employees worldwide and 1.3 million daily unique visitors to its stores and a turnover of 83 billion euros in 2022, the Complainant is a significant international retailer.

The Complainant owns numerous trade mark registrations worldwide for its CARREFOUR mark, including International trade mark No. 351147 for CARREFOUR registered on October 2, 1968 which is designated in several countries. The Complainant owns numerous domain names incorporating its CARREFOUR mark including <carrefour.com> from which it operates its main website and it also owns the domain name <pass-carrefour.com> which was registered in 2019. The Complainant operates a "CARREFOUR PASS" payment service which is accessible via an "app". Its CARREFOUR mark and business has a considerable social media presence.

The disputed domain names were both registered respectively in July 18 and 19, 2024. They both divert to blank error pages.

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 names.

The Complainant submits that it owns registered trade marks in the CARREFOUR mark as noted above. It says that each of the disputed domain names wholly incorporate its registered trade mark and each is therefore confusingly similar to its registered mark. The Complainant asserts that the incorporation of additional elements, such as, "app" and "pass" and of a hyphen do not diminish or prevent a finding of confusing similarity and do not change the overall impression given by each of the disputed domain names as the CARREFOUR mark is immediately recognizable within each of the disputed domain names.

The Complainant maintains that after performing trade mark searches there is no evidence that the Respondent has acquired trade mark rights in the name or mark "Carrefour" and it says that there is also no evidence that the Respondent is commonly known by the disputed domain names, whether as an individual, business or other organization. It says that that the Complainant has never licensed or authorised the Respondent to use its CARREFOUR mark in either of the disputed domain names and that the Respondent has not used or made preparations to use the disputed domain name names in relation to a bona fide offering of goods or services.

The Complainant notes that each of the disputed domain names resolve to an error page. According to the Complainant, the disputed domain names are inherently likely to mislead Internet users, with a risk of implied affiliation and there is no evidence that the Respondent has been making a legitimate, non-commercial or fair use of either of the disputed domain names. In addition, in light of the worldwide renown of the Complainant's trade mark, the Complainant sees no plausible use of the disputed domain names that would be legitimate fair and non-commercial. The Complainant submits that in view of its long prior use of the

CARREFOUR mark and of the degree of reputation attaching to it worldwide, that it is a matter for the Respondent to establish its rights and legitimate interests in each of the disputed domain names.

As stated above, the Complainant notes that its trade mark registrations predate the registration of the disputed domain names by many years and that based on the extensive worldwide reputation attaching to its CARREFOUR mark the Respondent necessarily had the Complainant's name and trade marks in mind when registering the disputed domain names. The Respondent's choice of domain names cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trade marks, noting that a quick trade mark search or search engine enquiry would have disclosed the Complainant's Internet presence. The Complainant says that UDRP Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith (see *Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case No. [D2021-0274](#)).

In addition, the Complainant submits that it is highly likely that the Respondent chose the disputed domain names because of their similarity to trade marks in which the Complainant has rights and legitimate interests. This, says the Respondent, was most likely done in the hope and expectation that Internet users searching for the Complainant's services and products, including its "CARREFOUR PASS" payment service which is accessible via an "app", would instead come across the disputed domain names and this cannot be considered good faith use.

The Complainant also asserts that the current use of the disputed domain names may not be considered a good faith use. By simply maintaining the disputed domain names, the Respondent is preventing the Complainant from reflecting its trade marks in the corresponding domain names. In addition, the disputed domain names resolve to error pages. The Complainant submits that the non-use of a domain name (including a blank or error page) does not prevent a finding of bad faith under the doctrine of passive holding. It also asserts that it cannot think of any future use of the disputed domain names that could be done by the Respondent in good faith.

Lastly, the Complainant submits that more than one concern is also raised by the registration information provided by the registrar. It says that there is no evidence of the existence of an address corresponding to registrant contact information provided by the Registrar and the telephone number includes no international prefix. This, says the Complainant, leads to the belief that fanciful contact details were used when registering the disputed domain names, in breach of the registration agreement.

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.

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 Panel finds the mark is recognisable within each of the disputed domain names. Accordingly, each of the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition in the disputed domain names respectively of additional elements, such as, “app” or “pass” and of a hyphen does not prevent a finding of confusing similarity.

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.

The Complainant has submitted that after performing trade mark searches there is no evidence that the Respondent has acquired trade mark rights in the term “carrefour” and it has asserted that there is also no evidence that the Respondent is commonly known by the disputed domain names, whether as an individual, business or other organization. It has submitted that the Complainant has never licensed or authorised the Respondent to use its CARREFOUR mark in either of the disputed domain names and that the Respondent has not used or made preparations to use the disputed domain names in relation to a bona fide offering of goods or services.

The Complainant has noted that each of the disputed domain names resolves to an error page. According to the Complainant, the disputed domain names are inherently likely to mislead Internet users, with a risk of implied affiliation and it has submitted that there is no evidence that the Respondent has been making a legitimate, non-commercial or fair use of either of the disputed domain names. In addition, in light of the worldwide renown of the Complainant’s trade mark, the Complainant has also submitted that it sees no plausible use of the disputed domain names that could be legitimate fair and non-commercial.

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.

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

C. Registered and Used in Bad Faith

As set out under section 4 above, each of the disputed domain names were registered in 2024, many decades after the Complainant’s registration of its trade mark CARREFOUR. As acknowledged by this Panel and many previous panels, the Complainant enjoys a very substantial reputation attaching to its CARREFOUR mark as a consequence of its very substantial international business. It is very unlikely that in these circumstances, the Respondent’s choice of domain names can have been accidental. It is most likely that it was influenced by the very substantial degree of reputation of the Complainant and its earlier trade marks and domain names noting, in particular, that the Complainant operates the Carrefour Pass payment service which is accessible through an “app” and also owns the domain name <pass-carrefour.com>. Even

had the Respondent not been aware of the Complainant's name and mark, a quick trade mark search or search engine enquiry would have disclosed the Complainant's substantial online business presence. In these circumstances the Panel considers that it was most likely that the Respondent was very well aware of the Complainant and its business and of the CARREFOUR mark when it registered each of the disputed domain names.

Panels have found that the non-use of a domain name (including an error page as in this case) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Previous panels have found bad faith in circumstances of the passive holding of a disputed domain name where (i) there is a high degree of distinctiveness or reputation of the complainant's mark, (ii) the respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent has concealed its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) it is not plausible that the disputed domain name will be used in good faith.

In this case the Complainant's CARREFOUR mark is highly distinctive and is very well reputed in France and internationally. The Respondent has failed to submit a response or to explain its registration of the disputed domain names. The Respondent attempted to conceal its identity by using a privacy service and based on the information provided by the Complainant it appears that his address information is most likely false. Considering the degree of renown attaching to the CARREFOUR mark and the Complainant's CARREFOUR PASS payment service for which has its own "app", it is most likely that the Respondent did not intend to use the disputed domain names in good faith. For these reasons the Panel finds that the disputed domain names were registered and have been used passively in bad faith and that the Complaint also succeeds under section 4(a)(iii) of 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 <app-carrefourpass.com> and <carrefourpass-app.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: September 20, 2024