

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Francisca Prado, Carrefour and Juana Castillo, Carrefour
Case No. D2024-3179

1. The Parties

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

The Respondent is Francisca Prado, Carrefour, Spain and Juana Castillo, Carrefour, Spain.

2. The Domain Names and Registrar

The disputed domain names <carrefourgroup.online> and <carrefoursupermercados.online> are registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 5, 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 (Domain Admin, Privacy Protect LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 5, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainant to either file separate complaint(s) 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 filed an amended Complaint on August 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 Respondents of the Complaint, and the proceedings commenced on August 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on September 10, 2024.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on September 16, 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 company mainly active in the retail sector. It was founded in 1968 and has more than 12,000 retail locations, including supermarkets, in more than 30 countries worldwide, including Spain.

The Complainant is the owner of registered trademarks in the mark CARREFOUR, amongst which:

International Trademark No. 351147 for CARREFOUR, registered on October 2, 1968, in International Classes 1 to 34; and

International Trademark No. 353849 for CARREFOUR, registered on February 28, 1969, in International Classes 35 to 42.

In addition, the Complainant owns domain names containing the CARREFOUR trademark, amongst which <carrefour.com>, <carrefour.eu>, <carrefour.fr>, and <carrefour.es>.

The disputed domain names were registered on July 1, and 2, 2024, well after the Complainant secured rights in the mark CARREFOUR. Neither of the disputed domain names direct to an active webpage.

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.

With respect to the first element, the Complainant contends that it has rights in the mark CARREFOUR and that the disputed domain names are confusingly similar to this mark. The disputed domain names reproduce the well-known CARREFOUR mark in its entirety. In addition, the Complainant notes, the disputed domain names merely append the descriptive terms "group" and "supermercados" (Spanish for "supermarkets") to the Complainant's CARREFOUR trademark. The Complainant adds that the addition of the terms exacerbates confusion because it implies a direct association with the Complainant's operations. Finally, the Complainant claims that the generic Top-Level-Domain ("gTLD") ".online," featured in the disputed domain names, is not significant in determining whether the disputed domain names are identical or confusingly similar to the trademarks of the Complainant.

Regarding the second element, the Complainant claims that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant contends that the Respondent does not own any trademark rights in CARREFOUR and is not commonly known by the disputed domain names. Furthermore, the Complainant confirms that the Respondent has not been granted any license or authorization from the Complainant to use domain names featuring the CARREFOUR trademark. Moreover, the Complainant

contends that the Respondent is not using the disputed domain names in connection with a bona fide offering of services nor is making preparations for such use. On the contrary, the disputed domain names are not in use.

As to bad faith registration, the Complainant claims that the Respondent was undoubtedly aware of the Complainant's well-known CARREFOUR trademark since it has a significant global presence and reputation. Moreover, the inclusion of "carrefour" within the disputed domain names, along with the descriptive terms "group" and "supermercados," indicates that the Respondent specifically targeted the Complainant's trademark, according to the Complainant. In respect of bad faith use, the Complainant refers to the passive holding doctrine and claims that the current non-use of the disputed domain names should still be considered as bad faith use. In addition, the Complainant suggests that the deliberate inactivity of the disputed domain names suggests an intention to withhold the disputed domain names from the Complainant, thus preventing the latter from reflecting its trademark in corresponding legitimate domain names. Finally, the Complainant points to the renown of the CARREFOUR trademark, the absence of any legitimate interest, and the potential for consumer confusion or disruption to the Complainant's business.

B. Respondents

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

6. Discussion and Findings

A. Preliminary Issue: 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 Complainant has convincingly demonstrated that: (i) the two disputed domain names have similar naming patterns ("carrefour" + "group" or "supermercados" and the gTLD ".online"); (ii) the registrants have similar contact information since both use contact addresses in Madrid, Spain; (iii) the disputed domain names were created one day apart and were registered with the same registrar (Hostinger); and (iv) the disputed domain names are connected with the same name servers. The Panel believes that these circumstances, in combination with the absence of a response from the disputed domain name registrants, sufficiently indicate that the disputed domain names are under common control. With respect to fairness and equity, since the disputed domain name registrants have not responded to this Complaint and splitting the Complaint would not be beneficial to procedural efficiency, the Panel finds that consolidation of the Complaint would be fair and equitable to all parties concerned and grants the Complainant's request.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

B. 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 names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademark CARREFOUR for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark CARREFOUR 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.

Although the addition of other terms, here respectively “group” and “supermercados”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Finally, as for the applicable gTLD “.online”, the Panel holds that this can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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

C. 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.

The Panel finds that the Respondent does not use the disputed domain names in connection with a bona fide offering of services and has neither made a legitimate noncommercial or fair use of the disputed domain names. Both of the disputed domain names are currently not being actively used. In addition, the Complainant confirmed that the Respondent is not affiliated with the Complainant in any way nor has the Complainant licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant’s trademarks. The Panel has taken note of the Complainant’s confirmation in this regard and has not seen any evidence that would suggest the contrary. Noting the composition of the disputed domain names, in the absence of any license or permission from the Complainant to use its trademarks, no actual or

contemplated bona fide or legitimate use of the disputed domain names could reasonably be claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); and *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

Finally, while the Panel notes that the name “Carrefour” appears in the WhoIs, there is no evidence that the Respondent has been commonly known by the disputed domain names, or owns any registered trademarks in CARREFOUR, and therefore the Respondent has used false contact details when registering the disputed domain names.

Based on the available record, the Panel finds the second element of the Policy has been established.

D. 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.

As the Panel found above under the first element, the mark CARREFOUR has been incorporated in its entirety in the disputed domain names and the disputed domain names are confusingly similar to the Complainant’s CARREFOUR trademarks, meaning that the registration of the disputed domain names has clearly been done to attract Internet users by creating a likelihood of confusion with the Complainant’s CARREFOUR trademarks (paragraph 4(b)(iv) of the Policy). All the more, the Panel believes the addition of the terms “group” and “supermercados” does not reduce the confusing similarity since “group” will likely be understood as a reference to the group of companies of the Complainant and “supermercados”, the Spanish word for “supermarkets”, as a reference to the Complainant’s supermarkets.

Furthermore, it should be noted that 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 also 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.

First of all, the Panel believes that the Respondent knew or, at least, should have known at the time of registration that the disputed domain names included the Complainant’s CARREFOUR trademarks. As demonstrated by the Complainant, prior panels have previously recognised that the CARREFOUR trademark is well-known (see, for example: *Carrefour v. Contact Privacy Inc. Customer 0155401638 / Binya Rteam*, WIPO Case No. [D2019-2895](#); and *Carrefour v. Perfect Privacy, LLC / Milen Radumilo*, WIPO Case No. [D2019-2610](#)). Other prior 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 (see [WIPO Overview 3.0](#), Section 3.1.4). Moreover, the Complainant’s evidence shows that the CARREFOUR trademarks were registered many years before registration of the disputed domain names in several countries. The Respondent’s knowledge of the Complainant and its trademarks and therefore its registration in bad faith of the disputed domain names may accordingly also be inferred from these circumstances. [WIPO Overview 3.0](#), section 3.2.2.

Second, panels have found that the non-use of a domain name (including the use of a parking 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 names 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 Complainant’s CARREFOUR trademark as well as the composition of the disputed

domain names. Finally, the Panel notes the Respondent's use of a proxy service to conceal its identity in the Whois data. In light of these circumstances, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of 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 <carrefourgroup.online> and <carrefoursupermercados.online> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: September 30, 2024