

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Daniel Ortiz, Tomas Chavez, Sergio Escobar, Mario Montes, Daniel Herrera, Alejandro Gimenez, Rafael Aguilar, Juan Santos, Felipe Marin, Santiago Valverde, Miguel Nieto, Rafael Ferreyra, Gonzalo Blanco, Santiago Coronel, Julian Valenzuela, Angel Maldonado, David Pereyra, Daniel Gutierrez, Alfonso Espejo, Jaime Cortes, Cesar Arroyo, Nicolas Villalba, Hugo Escobar, Gerardo Rubio, Salvador Castellanos, Lorenzo Suarez, Domingo Castellanos, Gregorio Montes, Jorge Herrero, and Daniel Revuelta
Case No. D2024-3965

1. The Parties

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

The Respondents are Daniel Ortiz, Tomas Chavez, Sergio Escobar, Mario Montes, Daniel Herrera, Rafael Aguilar, Juan Santos, Santiago Valverde, Miguel Nieto, Rafael Ferreyra, Gonzalo Blanco, Santiago Coronel, Julian Valenzuela, Angel Maldonado, David Pereyra, Daniel Gutierrez, Alfonso Espejo, Jaime Cortes, Cesar Arroyo, Nicolas Villalba, Hugo Escobar, Gerardo Rubio, Salvador Castellanos, Lorenzo Suarez, Domingo Castellanos, Gregorio Montes, Jorge Herrero, and Daniel Revuelta, all from Spain; Alejandro Gimenez and Felipe Marin, both from United Kingdom.

2. The Domain Names and Registrar

The disputed domain names <carrefour-es.fun>, <carrefour-es.site>, <carrefour-es.tech>, <carrefour-es.xyz>, <carrefour-express-es.cloud>, <carrefour-express-es.fun>, <carrefour-express-es.icu>, <carrefour-express-es.online>, <carrefour-express-es.shop>, <carrefour-express-es.site>, <carrefour-express-es.store>, <carrefour-express-es.tech>, <carrefour-express-es.website>, <carrefour-express-es.xyz>, <carrefour-market-es.online>, <carrefour-market-es.shop>, <carrefour-market-es.site>, <carrefour-market-es.store>, <carrefour-market-es.website>, <es-carrefour-express.online>, <es-carrefour-express.blog>, <es-carrefour-express.cloud>, <es-carrefour-express.fun>, <es-carrefour-express.icu>, <es-carrefour-express.online>, <es-carrefour-express.shop>, <es-carrefour-express.site>, <es-carrefour-express.store>, <es-carrefour-express.tech>, and <es-carrefour-express.website> 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 September 27, 2024. On September 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 30, 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), Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 4, 2024 with the registrant and contact information of 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 filed an amended Complaint on October 8, 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 October 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 4, 2024.

The Center sent two communications regarding the notification of the Complaint on November 13 and 22, 2024. The due date for Response was extended until November 27, 2024, after which point the Center instructed the Parties that it would proceed with the panel appointment process. The Respondent did not submit any response.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on December 2, 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 leader in the retail business, having achieved a revenue of EUR 83 billion in 2022 and operating more than 12,000 stores in over 30 countries worldwide.

The Complainant is the owner of several trademark registrations for CARREFOUR, amongst which (Annex 4.1 to the Complaint):

- International Trademark Registration No. 351147, in classes 1 to 34, registered on October 2, 1968, and successively renewed; and
- International Trademark Registration No. 353849, in classes 35 to 42, registered on February 29, 1969, and successively renewed.

The disputed domain names were registered on and are presently used in connection with:

Disputed Domain Name	Registration Date	Present Use
<carrefour-es.fun>	August 27, 2024	No active webpage
<carrefour-es.site>	August 21, 2024	No active webpage
<carrefour-es.tech>	September 5, 2024	No active webpage
<carrefour-es.xyz>	September 5, 2024	No active webpage
<carrefour-express-es.cloud>	September 9, 2024	No active webpage
<carrefour-express-es.fun>	August 27, 2024	No active webpage
<carrefour-express-es.icu>	August 28, 2024	No active webpage
<carrefour-express-es.online>	August 27, 2024	No active webpage
<carrefour-express-es.shop>	August 28, 2024	No active webpage
<carrefour-express-es.site>	September 2, 2024	No active webpage
<carrefour-express-es.store>	August 28, 2024	No active webpage
<carrefour-express-es.tech>	September 2, 2024	No active webpage
<carrefour-express-es.website>	September 2, 2024	No active webpage
<carrefour-express-es.xyz>	September 9, 2024	No active webpage
<carrefour-market-es.online>	September 23, 2024	No active webpage
<carrefour-market-es.shop>	September 23, 2024	No active webpage
<carrefour-market-es.site>	September 24, 2024	No active webpage
<carrefour-market-es.store>	September 9, 2024	No active webpage
<carrefour-market-es.website>	September 24, 2024	No active webpage
<es-carrefour-express.online>	September 26, 2024	No active webpage
<es-carrefour-express.blog>	September 19, 2024	No active webpage
<es-carrefour-express.cloud>	September 26, 2024	No active webpage
<es-carrefour-express.fun>	September 19, 2024	No active webpage
<es-carrefour-express.icu>	September 18, 2024	No active webpage
<es-carrefour-express.online>	September 16, 2024	No active webpage
<es-carrefour-express.shop>	September 16, 2024	No active webpage
<es-carrefour-express.site>	September 16, 2024	No active webpage
<es-carrefour-express.store>	September 18, 2024	No active webpage
<es-carrefour-express.tech>	September 18, 2024	No active webpage
<es-carrefour-express.website>	September 19, 2024	No 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.

Notably, the Complainant asserts to be a worldwide leader in retail and a pioneer in the concept of hypermarkets, presently employing more than 384,000 people and operating over 12,000 stores in more than 30 countries.

Furthermore, the Complainant asserts that its CARREFOUR trademark enjoys a worldwide reputation, as past UDRP panels have already considered it to be well known.

The Complainant sustains that the disputed domain names are under common control and requests that they be dealt with at a single proceeding given that: (i) the disputed domain names were registered within a very short time frame, between August 21 and September 26, 2024, sharing (ii) the same Registrar and (iii) a similar naming pattern, as well as (iv) similarly structured e-mail addresses and part of their contact details. The disputed domain names, according to the Complainant, reproduce entirely the Complainant's CARREFOUR trademark with the addition of generic terms, what is not sufficient to avoid a finding of confusing similarity under the Policy.

Regarding the absence of the Respondents' rights or legitimate interests, the Complainant argues that:

- i. the Respondents have no prior rights or legitimate interests in the CARREFOUR trademark;
- ii. the Respondents are not commonly known by the disputed domain names;
- iii. the Respondents were not authorized by the Complainant to use or register its trademarks as domain names; and
- iv. the Respondents have not used the disputed domain names in connection with a bona fide offering of goods or services given that the disputed domain names are being passively held.

Furthermore, the Complainant submits that its trademark is so widely well known that it is inconceivable that the Respondents could have ignored the Complainant and its trademark rights. Quite to the contrary, the Complainant sustains that in view of the importance of its trademark the Respondents have registered the disputed domain names seeking to unfairly capitalize on the goodwill and fame of the Complainant's trademark by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of their websites, making Internet users believe that the websites are associated, endorsed or recommended by the Complainant, which is not true.

As to the use of the disputed domain names in bad faith, the Complainant argues that the Respondents are passively holding the disputed domain names, therefore preventing the Complainant from reflecting its well-known trademark in them.

B. Respondents

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

6. Discussion and Findings

6.1. Procedural Matter – Consolidation of 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.

The Complainant requests that this Panel accept multiple Respondents in a single proceeding in view of the facts enumerated at section 5.A. above.

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") establishes that "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

All of the aforementioned criteria are present in this case and therefore this Panel accepts such request considering that it would be more procedurally efficient to have the 30 disputed domain names dealt with at the same proceeding, given that the disputed domain names share a number of characteristics: a) they relate to the same well-known trademark that belongs to the Complainant, b) they were all registered within a relatively short period of time, c) they were all registered with the same Registrar, d) sharing the same naming pattern (with the inclusion of the terms "es", "express", and/or "market" as well as hyphens) and e) do not appear to be in active use.

This Panel is satisfied, in view of the evidence submitted and on balance that the disputed domain names are indeed subject to a common control and that consolidation would be fair and equitable to all Parties.

6.2. Substantive Matter

Paragraph 4(a) of the Policy sets forth three requirements which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

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 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 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 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 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 Respondents, in not responding to the Complaint, have failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names. This entitles the Panel to draw any inferences from such default as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a prima facie case against the Respondents under the second UDRP element.

In that sense, and according to the evidence submitted, there is no evidence that the Respondents have been commonly known by the disputed domain names, and furthermore, the Complainant indeed states that the Respondents were not authorized to use or register its trademarks as domain names.

In addition to that, the absence of any indication that the Respondents have been commonly known by the disputed domain names, or that they have acquired any registered trademarks or trade names corresponding to the disputed domain names, corroborate with the indication of the Respondents’ lack of rights or legitimate interests in the disputed domain names.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondents do not have rights or legitimate interests with respect to the disputed domain names.

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 would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Two other factors corroborate the finding of the Respondents’ bad faith conduct in this case: the Respondents lack of reply to the Complaint and the use of a false contact details, not being the Center able to deliver the written notice to all but three of the addresses indicated by the Respondents.

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-es.fun>, <carrefour-es.site>, <carrefour-es.tech>, <carrefour-es.xyz>, <carrefour-express-es.cloud>, <carrefour-express-es.fun>, <carrefour-express-es.icu>, <carrefour-express-es.online>, <carrefour-express-es.shop>, <carrefour-express-es.site>, <carrefour-express-es.store>, <carrefour-express-es.tech>, <carrefour-express-es.website>, <carrefour-express-es.xyz>, <carrefour-market-es.online>, <carrefour-market-es.shop>, <carrefour-market-es.site>, <carrefour-market-es.store>, <carrefour-market-es.website>, <es-carrefour-expres.online>, <es-carrefour-express.blog>, <es-carrefour-express.cloud>, <es-carrefour-express.fun>, <es-carrefour-express.icu>, <es-carrefour-express.online>, <es-carrefour-express.shop>, <es-carrefour-express.site>, <es-carrefour-express.store>, <es-carrefour-express.tech>, and <es-carrefour-express.website> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: December 13, 2024