

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Jesus Caceres, Isadoro Regino, and Rodrigo Caballero  
Case No. D2024-4449

### **1. The Parties**

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

The Respondents are Jesus Caceres, Spain; Isadoro Regino, Spain; and Rodrigo Caballero, Spain.

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

The disputed domain names <carrefour-express-es.blog>, <carrefour-express-es.click>, and <es-carrefour-express.click> 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 October 30, 2024. On October 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 31, 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 (PrivacyProtect.org)) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 1, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, 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 November 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 November 6, 2024. In accordance with the Rules,

paragraph 5, the due date for Response was November 26, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on November 27, 2024.

The Center appointed Marilena Comanescu 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 one of the worldwide leaders in retail and a pioneer of the concept of hypermarkets back in 1968. With a revenue of EUR 83 billion in 2022, the Complainant is listed on the index of the Paris Stock Exchange (CAC 40). The Complainant operates more than 12,000 stores in more than 30 countries worldwide; has more than 384,000 employees and 1.3 million daily unique visitors in its stores. The Complainant additionally offers travel, banking, insurance, and ticketing services.

The Complainant owns several hundred trademark registrations worldwide for or including CARREFOUR, such as the following:

- the International Trademark Registration number 351147 for CARREFOUR (word), registered on October 2, 1968, covering goods in International Classes from 1 to 34;
- the European Union trademark registration number 5178371 for CARREFOUR (word), filed on June 20, 2006, registered on August 30, 2007, covering goods and services in International Classes 9, 35, and 38; and
- the European Union trademark registration number 5405832 for CARREFOUR EXPRESS (figurative), filed on October 10, 2006, registered on October 18, 2007, covering goods and services in International Classes 29, 30, 31, 32, 33, and 35.

The Complainant owns numerous domain names incorporating CARREFOUR, such as <carrefour.com> registered since 1995, <carrefour.fr> registered since 2005, and <pass-carrefour.com> registered since 2019.

The disputed domain names were registered all on September 30, 2024, and, at the time of filing of the Complaint, none was actively used, they resolved to standard landing pages provided by the Registrar.

#### **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 contends that the disputed domain names are confusingly similar to its earlier well-known trademarks which are immediately recognizable and are entirely reproduced in the disputed domain names; in particular, the disputed domain names reproduce the well-known CARREFOUR trademark together with the two letters "es" and the generic term "express", separated by hyphens, whereas the "es" would be interpreted by users as a reference to Spain; the disputed domain names also reproduce in its entirety the CARREFOUR EXPRESS trademark, together with "es", separated by a hyphen; the Respondents have no rights or legitimate interests in the disputed domain names; the Complainant's mark is well known and the disputed domain names carry a risk of implied affiliation with the Complainant; the Respondents registered and are using the disputed domain names in bad faith mainly because: the

Complainant's mark is so widely well known that it is inconceivable that the Respondents ignored the Complainant or its rights, the Complainant's trademark significantly predates the registration date of the disputed domain names, the Respondents chose the domain names because of the similarity between the Complainant's mark and the disputed domain names, by simply maintaining the disputed domain names, the Respondents are preventing the Complainant from reflecting its name and trademarks in the corresponding domain names, the non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Procedural Issue: Consolidation of Multiple Respondents**

The amended Complaint was filed in relation to nominally different disputed domain name registrants. The Complainant alleges that the disputed 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 disputes 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 the disputed domain names (i) are registered on the same date and with the same Registrar; (ii) were created in a similar manner, incorporating the Complainant's trademark CARREFOUR EXPRESS and the term "es", separated by hyphens, and the generic Top-Level Domains ("gTLDs") ".click" and ".blog"; (iii) were not associated with active websites, all resolving to the same standard landing page provided by the Registrar; (iv) all the registrants are supposedly residents in Spain, and some of them share common details such as the street name, the postal code, the telephone number, while the others reportedly are located in the same city; and (v) the Respondents have not objected to the consolidation claims made by the Complainant despite the communications sent by the Center to them.

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 (referred to below as "the Respondent") in a single proceeding.

### **6.2 Substantive Issue: Three Elements**

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

- (i) the disputed domain names are 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 the disputed domain names; and
- (iii) the disputed domain names have been registered and are 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 names. See section 1.7 of the [WIPO Overview 3.0](#).

Based on the available record, the Panel finds 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 CARREFOUR, and the verbal element of the mark CARREFOUR EXPRESS, is recognizable within the disputed domain names. Accordingly, each of the disputed domain names is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other term, here "es" and hyphens, 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 names 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 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 notes the composition of the disputed domain names which combines the Complainant's well-known trademark CARREFOUR with the term, "express" (also reproducing the Complainant's mark CARREFOUR EXPRESS) and the geographical term "es" which is a country code for Spain, suggesting an affiliation with the Complainant. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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 disputed domain names were registered in bad faith, with knowledge of the Complainant and its trademark particularly because the Complainant's trademark predates the registration of the disputed domain names by more than 50 years and is highly distinctive and well known worldwide.

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.

At the time of filing the Complaint, the disputed domain names were not connected to an active website.

UDRP 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. Having reviewed the available record, the Panel notes the distinctiveness and international reputation of the Complainant's trademark; the composition of the disputed domain names (i.e., the combination of the Complainant's trademark and the term "es" which can be interpreted as a country code for Spain); the Respondent's failure to respond to the present proceedings; the implausibility of any good faith use to which the disputed domain names may be put, 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. [WIPO Overview 3.0](#), section 3.3.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can, by itself, create a presumption of bad faith for the purpose of Policy. [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 names, <carrefour-express-es.blog>, <carrefour-express-es.click>, and <es-carrefour-express.click>, be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: December 9, 2024