

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Name Redacted, M E Akkad, barberakkad, REDACTED PRIVACY, Jamel Samet, VICTOR MANUEL MENDIRICHAGA, Sofia Reyes
Case No. D2023-4136

1. The Parties

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

The Respondents are Name Redacted¹; M E Akkad, barberakkad, Netherlands (Kingdom of the); REDACTED PRIVACY, United States of America (“United States”); Jamel Samet, Germany; VICTOR MANUEL MENDIRICHAGA, and Sofia Reyes, Mexico.

2. The Domain Names and Registrars

The disputed domain names <carrefour-pagofacil.com>, <pass-carrefours.com>, <www-pass-carrefour-es-zona-cliente.com>, <www-pass-carrefour-es-zona-cliente.org> are registered with Tucows Inc.; <es-carrfour-pass.com> is registered with GoDaddy.com, LLC; <es-pass-carrefour.com>, <pass-carrefour-cliente.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2023 in relation to the disputed domain names <carrefour-pagofacil.com>, <es-carrfour-pass.com>, <es-pass-carrefour.com>, and <pass-carrefour-cliente.com>. On October 4, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On October 4 and 6, 2023, the Registrar s transmitted by email to the Center their verification responses 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. On October 9, 2023, the Complainant sent an email to the Center requesting the addition of the disputed domain names

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name <carrefour-pagofacil.com>. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name <carrefour-pagofacil.com>, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

<pass-carrefours.com>, <www-pass-carrefour-es-zona-cliente.com>, and <www-pass-carrefour-es-zona-cliente.org> to the current proceeding. On October 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the additional disputed domain names. On October 10, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the additional 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 October 11, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, 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. The Complainant filed an amended Complaint on October 16, 2023.

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 October 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2023.

A third party sent an email communication to the Center on November 13, 2023, indicating that the registration of the disputed domain name <carrefour-pagofacil.com> had been made without its knowledge or authorization by a third party using its identity. On November 22, 2023, the Center informed the parties that it would proceed to panel appointment.

The Center appointed Edoardo Fano as the sole panelist in this matter on November 29, 2023. 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.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a formal response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Carrefour SA, a French retail Group operating with more than 12,000 stores and e-commerce sites in more than 30 countries. The Complainant owns several trademark registrations for CARREFOUR and CARREFOUR PASS, among which the following ones:

- International Trademark Registration No. 351147 for CARREFOUR, registered on October 2, 1968, for goods in the Classes 1 to 34;

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

- International Trademark Registration No. 719166 for CARREFOUR PASS, registered on August 18, 1999, for services in Class 36.

The Complainant operates on the Internet at several websites, its main website being "www.carrefour.com". The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain names were registered on the following dates: <carrefour-pagofacil.com> on July 30, 2023; <pass-carrefours.com> on August 31, 2023; <es-carrfour-pass.com> on July 22, 2023; <es-pass-carrefour.com> on July 29, 2023; <pass-carrefour-cliente.com> on July 20, 2023; <www-pass-carrefour-es-zona-cliente.org> and <www-pass-carrefour-es-zona-cliente.com> on August 19, 2023. The disputed domain names <carrefour-pagofacil.com>, <pass-carrefours.com>, <es-carrfour-pass.com>, and <pass-carrefour-cliente.com> redirect to a "deceptive website" warning page provided by Google; the disputed domain name <es-pass-carrefour.com> resolves to a parking page with Pay-Per-Click ("PPC") links; the disputed domain names <www-pass-carrefour-es-zona-cliente.com> and <www-pass-carrefour-es-zona-cliente.org> are inactive.

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 states that the disputed domain names are confusingly similar to its trademarks CARREFOUR and CARREFOUR PASS.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademarks within the disputed domain names, it is not commonly known by the disputed domain names and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. The disputed domain names either are blocked by the browser's Phishing and Malware Protection, or resolve to a parking page with PPC links, or are inactive.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademarks CARREFOUR and CARREFOUR PASS are well-known. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names to redirect to a "deceptive website" warning page provided by Google, and to resolve to a parking page with PPC links or to inactive webpages, qualifies as bad faith registration and use.

B. Respondents

The Respondents have made no reply to the Complainant's contentions and are in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

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.

6. Discussion and Findings

6.1 Procedural issue - Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different 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 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. [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that all the disputed domain names follow a very similar naming pattern, they have been registered in a relative short period of time, namely between July 20 and August 31, 2023, and they all target the Complainant's payment services (by using the terms "pagofacil" meaning "easy pay" in English and "pass").

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 Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 Respondent has 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.

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

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 entirety of the marks CARREFOUR or CARREFOUR PASS is reproduced within the disputed domain names, with the exception of the disputed domain name <es-carrfour-pass.com>, in which, although missing the letter “e” of the mark CARREFOUR, the latter remains nevertheless visually and in particular phonetically recognizable, being a typical case of a deliberate misspelling of a mark (so-called “typosquatting”), by adding, deleting, substituting or reversing the order of letters in a mark, where numerous UDRP panels in the past have found confusing similarity to be present.

Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.9.

While the addition of other terms, here “pagofacil”, “pass”, “es”, “zona”, “cliente” and hyphens, may bear on assessment of the second and third elements, the Panel finds the addition of such terms and elements 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.

It is also well accepted that a generic Top-Level Domain, in this case “.com” and “.org”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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 names. 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 present 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 disputed domain names <carrefour-pagofacil.com>, <pass-carrefours.com>, <es-carrfour-pass.com>, and <pass-carrefour-cliente.com> redirect to a “deceptive website” warning page provided by Google. Panels have held that the use of a domain name for illegal activity, here phishing and distributing malware, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The disputed domain name <es-pass-carrefour.com> resolves to a parking page with PPC links related to financial services. The use of a disputed domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the Complainant’s trademark. [WIPO Overview 3.0](#), section 2.9.

The disputed domain names <www-pass-carrefour-es-zona-cliente.com> and <www-pass-carrefour-es-zona-cliente.org> resolve to inactive websites, which under the circumstances of the case, do not give rise to a legitimate right or interest in the disputed domain names.

Based on the available record, 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.

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.

In the present case, regarding the registration in bad faith of the disputed domain names, the Complainant has evidenced to own the domain name which resolves to Complainant's main website at "www-carrefour-com" since 1995 and the reputation of the Complainant's trademarks CARREFOUR and CARREFOUR PASS is clearly established. The Panel finds that the Respondent likely knew of the Complainant and deliberately registered the confusingly similar disputed domain names.

As regards the use in bad faith of the disputed domain names <carrefour-pagofacil.com>, <pass-carrefours.com>, <es-carrfour-pass.com>, and <pass-carrefour-cliente.com>, redirecting to a "deceptive website" warning page provided by Google, panels have held that the use of a domain name for illegal activity, here phishing and distributing malware, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

As regards the use in bad faith of the disputed domain name <es-pass-carrefour.com>, resolving to a parking page with PPC links, the Panel notes that the Respondent is trying to attract Internet users to its website by creating likelihood of confusion with the Complainant's trademarks as to the disputed domain name's source, sponsorship, affiliation, or endorsement.

Finally, as regards the disputed domain names <www-pass-carrefour-es-zona-cliente.com> and <www-pass-carrefour-es-zona-cliente.org>, being both inactive, 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 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 trademarks, 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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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

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-pagofacil.com>, <pass-carrefours.com>, <www-pass-carrefour-es-zona-cliente.com>, <www-pass-carrefour-es-zona-cliente.org>, <es-carrfour-pass.com>, <es-pass-carrefour.com>, and <pass-carrefour-cliente.com> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: December 13, 2023