

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Jhon Doe  
Case No. D2023-4440

### **1. The Parties**

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

The Respondent is Jhon Doe, United States of America (“United States”).

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

The disputed domain name <es-carrefourpass.com> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name 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 31, 2023, 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 November 2, 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 Respondent of the Complaint, and the proceedings commenced on November 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 30, 2023.

The Center appointed Alissia Shchichka as the sole panelist in this matter on December 7, 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.

#### 4. Factual Background

The Complainant, headquartered in France and listed on the Paris Stock Exchange (CAC 40) index, operates retail stores worldwide, as well as providing travel, banking, insurance, and ticketing services. The Complainant has a presence in over 30 countries, managing more than 12,000 stores and employing over 384,000 people globally. In 2018, its revenues amounted to approximately EUR 76 billion.

The Complainant owns several trademarks containing the term CARREFOUR, amongst others:

- International trademark registration No. 351147, registered on October 2, 1968, for the word mark CARREFOUR in classes 1 to 34;
- International trademark registration No. 353849, registered on February 28, 1969, for the word mark CARREFOUR in classes 35 to 42;
- International trademark registration No. 719166, registered on August 18, 1999 for the word mark CARREFOUR PASS in class 36.

The Complainant is also the owner of numerous domain names identical to, or comprising, CARREFOUR Trademarks, including <carrefour.com> registered since 1995, and <pass-carrefour.com> registered since 2019.

The above trademarks and domain names were registered prior to the registration of the disputed domain name, which was registered on October 11, 2023.

The Respondent, according to the disclosed Whois information for the disputed domain name, is located in the United States.

The disputed domain name displays an inactive 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 name.

Notably, the Complainant's contentions can be summarized as follows:

First, the Complainant contends that its CARREFOUR trademark is well-known.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademarks CARREFOUR and CARREFOUR PASS as it incorporates the entire trademark. The Complainant believes that by using a side-by-side comparison the trademark CARREFOUR is recognizable within the disputed domain name. The addition of the letters "es" (abbreviation for "Spain") and a hyphen to the Complainant's CARREFOUR and CARREFOUR PASS trademarks, does not alter the overall impression that the disputed domain name is associated with the Complainant's trademarks or prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademarks.

In respect of the generic Top-Level Domain ("gTLD") ".com", which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

Second, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name. The Complainant's trademarks significantly predate the registration of the disputed domain name. The Complainant supports that the Respondent chose the disputed domain name to attract visitors to his website and generate traffic.

Third, the Complainant additionally argues that the trademark CARREFOUR is widely known, and the Respondent was aware of the Complainant's trademark, indicating bad faith registration. Moreover, the Complainant submits that the disputed domain name resolves to an inactive page, i.e., passively held.

Furthermore, the Complainant asserts that the Respondent, in breach of the registration agreement, deliberately concealed its true identity by furnishing inaccurate Whois information during the registration of the disputed domain name. The use of the misspelled common name "Jhon Doe" and the absence of essential contact details, except for an email address from an anonymous service, underscores the Respondent's intentional attempts to hide its identity. This manipulation of contact details serves as compelling evidence supporting the argument that the disputed domain name was registered in bad faith.

Finally, the Complainant highlights the Respondent's past involvement in previous UDRP proceedings, citing *Sociedad Anonima Damm v. Privacy Service Provided by Withheld for Privacy ehf/ jhon doe*, WIPO Case No. [D2021-1654](#), where the Respondent engaged in the unauthorized registration of the domain name confusingly similar to the trademark owned by third party.

Therefore, the Complainant alleges that the registration and use of the disputed domain name was, and currently is, in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

### **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 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 mark CARREFOUR PASS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, the term “es” as an abbreviation for the term “Spain”) 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 name and the Complainant’s CARREFOUR PASS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

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 name. 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 name such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks.

Moreover, there is no element from which the Panel could infer a Respondent’s right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.2.

Also, there is no evidence of use of the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to profit from the goodwill of the Complainant’s trademarks. Paragraph 4(c)(iii) of the Policy and [WIPO Overview 3.0](#), section 2.4.

Indeed, the disputed domain name, being pointed to an inactive page, is passively held. In view of the Respondent’s default and given the substantial reputation and goodwill of the Complainant’s trademark, the

Panel shares the view held in *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#), where the panel found that, absent some contrary evidence from a respondent, passive holding of a domain name does not constitute legitimate noncommercial or fair use.

Therefore, on balance, the Panel is satisfied that a *prima facie* case exists that the Respondent lacks rights or legitimate interests.

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.

On the issue of registration, the Panel observes that the Complainant's well-known CARREFOUR trademarks substantially predates the Respondent's registration of the disputed domain name. Therefore, the Respondent knew or should have known of the Complainant's trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainant's widely known trademarks by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, the disputed domain name is inactive and unconnected with any *bona fide* supply of services by the Respondent. Previous UDRP 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.

The Panel finds that passive holding of the disputed domain name does not, in the circumstances of this case, prevent a finding of bad faith, given: (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, (iii) the Respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

In the absence of any evidence to contend against the Complainant's evidence and claims, this Panel accepts the Complainant's evidence and finds that the Respondent has registered and used the disputed domain name, without the Complainant's consent or authorization, for the likely purpose of capitalizing on the reputation of the Complainant's trademarks to target the Complainant's rights.

Accordingly, based on the available record, 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 name <es-carrefourpass.com> be transferred to the Complainant.

/Alissia Shchichka/

**Alissia Shchichka**

Sole Panelist

Date: December 21, 2023.