

## ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Name Redacted  
Case No. D2024-2309

### 1. The Parties

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

The Respondent is Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <carrefourpass-inicio.com> (the “Disputed Domain Name”) 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 June 5, 2024. On June 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 6, 2024, 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 June 7, 2024, 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 June 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”).

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<sup>1</sup>The Respondent appears to have used the name of a third party when registering the Disputed Domain Name. 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, 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case.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](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 1, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on July 8, 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 Euronext Paris Stock Exchange listed company founded in 1959 that operates a business providing supermarkets, retail stores, and convenience stores in 30 countries with sales of approximately EUR 80 billion annually. The Complainant holds registrations for the trademark CARREFOUR and variations of it in numerous jurisdictions, including, for example, International registration No. 191353 for the mark CARREFOUR, registered on March 9, 1956. The Complainant also holds registrations for the mark CARREFOUR PASS including International Registration No. 719166 for the mark CARREFOUR PASS, registered on August 18, 1999.

The Complainant owns numerous domain names that comprise of, or contain, the trademark CARREFOUR, including the domain name <carrefour.com>, which was registered on October 25, 1995.

The Respondent registered the Disputed Domain Name on May 21, 2024, and it resolves to 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 cites its trademark registrations in numerous jurisdictions for the mark CARREFOUR and variations of it (such as CARREFOUR PASS), as prima facie evidence of ownership.

The Complainant submits that the mark CARREFOUR is well known and that its rights in that mark predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name is comprised of the CARREFOUR trademark and that the addition of the words "pass" and "inicio" are not sufficient to avoid the confusing similarity to its trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because "[the Respondent's use of the Complainant's trademarks within the [D]isputed [D]omain [N]ame, without any authorization or license from the Complainant, is a clear indicator of the Respondent's absence of rights or legitimate interests" and none of the circumstances set out in paragraph 4(c) of the Policy apply. It contends that "the fact that the [D]isputed [D]omain [N]ame is not being used for any active website or service; instead, it leads to an error page [...] suggests a lack of any bona fide offering of goods or services."

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and well-known nature of the Complainant's trademark, and that its trademark CARREFOUR PASS was plainly targeted. The Complainant advances the argument that the passive holding of the Disputed Domain Name would not

prevent a finding of 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 has the burden of proving the following:

- (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

### **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. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any jurisdiction. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark CARREFOUR in numerous jurisdictions.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the CARREFOUR trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark CARREFOUR; (b) followed by the word "pass"; (c) followed by the word "inicio", which means "start" or "beginning" in Spanish and Portuguese; (d) followed by the generic Top-Level Domain ("gTLD") ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "carrefourpass-inicio".

The Panel finds the entirety of the marks CARREFOUR and CARREFOUR PASS are reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the words "pass" and/or "inicio" 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 Name 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 Disputed 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 the evidence that the Disputed Domain Name is inactive, which supports the Complainant’s submission that this “does not demonstrate any purpose, noncommercial, or otherwise, that would confer rights or legitimate interests” nor does it represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant’s mark.

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, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the well-known nature of the Complainant’s trademark, the Panel is satisfied that the Respondent knew or should have known of the Complainant’s trademarks CARREFOUR and CARREFOUR PASS when it registered the Disputed Domain Name (see *Carrefour v. Richard Mandanice*, WIPO Case No. [D2002-0623](#) (“The Complainant is the owner of at least two well-known CARREFOUR trademarks”); *Carrefour S.A. v. Damian Macafee*, WIPO Case No. [D2002-1060](#) (“the trademark CARREFOUR is internationally well-known”); *Carrefour v. Iwama*, WIPO Case No. [D2007-1522](#) (“the Complainant’s well known Trademark”); *Carrefour, S.A., Viajes Carrefour S.L. v. Pablo Iglesias Junco*, WIPO Case No. [D2008-1040](#) (“the Panel finds that the trademark CARREFOUR is well-known”); and *Carrefour SA v. Berta, Berta*, WIPO Case No. [D2023-3293](#) (“The Complainant’s trademark [ie: CARREFOUR PASS] is distinctive in its field of business, renowned and associated with the Complainant”). On balance, this Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to target the reputation and goodwill of the Complainant’s well-known trademark.

Further, a gap of several years between registration of a complainant’s trademark and respondent’s registration of a disputed domain name (containing the trademark) can indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Name some 68 years after the Complainant

established registered trademark rights in the CARREFOUR mark and some 25 years after it registered the CARREFOUR PASS trademark.

On the issue of use, the Complainant's evidence is that the Disputed Domain Names is inactive.

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. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Name 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 Complainant's well-known CARREFOUR trademark, and the composition of the Disputed Domain Name targeting both of the Complainant's CARREFOUR and CARREFOUR PASS trademarks, and finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Panels may take into account particular circumstances in assessing the respondent's bad faith include: (i) the nature of the Disputed Domain Name such as here where a widely-known mark is used, and incorporating additional terms such as the word "pass" that makes it correspond with the CARREFOUR PASS trademark owned by the Complainant and the word "inicio", which means "start" or "beginning" in Spanish and Portuguese; (ii) the use of third party contact details; and (iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the Disputed Domain Name. [WIPO Overview 3.0](#), section 3.2.1. In the circumstances, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes 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 Name <carrefourpass-inicio.com> be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: July 14, 2024