

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Alexia Palies

Case No. D2022-1044

1. The Parties

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

The Respondent is alexia palies, Spain.

2. The Domain Name and Registrar

The disputed domain name <carrefourspasse.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2022. On March 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 25, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2022, 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 March 28, 2022.

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 March 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on April 22, 2022. 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 the French company Carrefour, a leader in retail in the world, specialized in hypermarkets, a concept it invented back in the 60s. The Complainant operates over 12.000 stores in more than 30 countries worldwide, with 384,000 employees and over 1.3 million daily visitors. The Complainant additionally offers travel, banking, insurance or ticketing services.

The Complainant owns registrations for its marks CARREFOUR and CARREFOUR PASS in over 80 countries worldwide, including International Trademark Registration No. 351147, dating back to October 2, 1968. A proof of these registrations was attached to the Complaint as Annex 4.

The Complainant also owns several domain names formed by the mark CARREFOUR, with generic and country-code Top-Level Domains, including <carrefour.es>, for Spain, the country where, as per the information provided by the Registrar, the Respondent is seated. Proof of these registrations appears as Annex 5 to the Complaint.

The Complainant has established rights over the mark CARREFOUR internationally, and its fame and renown is linked to the Complainant. The Complainant presented substantial evidence of this renown, in Annexes 6 and 7 of the Complaint.

The disputed domain name was registered on February 14, 2022. The disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant is the owner of registrations worldwide for the mark CARREFOUR, which has been in use worldwide for almost 55 years. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark, registered and used worldwide.

In fact, the disputed domain name consists of the term "carrefour", which is identical to the Complainant's registered mark, and the remaining element being "spass", which can be interpreted as the possessive "s" plus the word "pass", encompasses one of the marks registered by the Complainant, CARREFOUR PASS (Annex 4 to the Complaint).

As stated by the documents presented, the registration and use of the trademark CARREFOUR predates the registration of the disputed domain name in decades.

The disputed domain name does not direct to an active website. On the other hand, it resolves to a landing page with the following message "Sito web in manutenzione", which is the Italian for "Website under maintenance".

In sum, the Complainant alleges that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- i. the disputed domain name is 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 to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name is, indeed, confusingly similar to the CARREFOUR trademark, as the latter is entirely incorporated in the disputed domain name, with the mere addition of “spasse”.

The Complainant has presented consistent evidence of ownership of the trademark CARREFOUR in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark for over five decades.

The use of the trademark with the addition of “spasse” in the disputed domain name does not prevent a finding of confusing similarity with the trademark. On the contrary, it can be considered as the agglutination of the mark with the possessive “s”, the word “pass”, which is also part of the CARREFOUR PASS trademark of the Complainant, and an added “e” after the term “pass”.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

The Panel notes that the trademark CARREFOUR is registered in the Complainant’s name and is widely known as identifying the Complainant’s activities, and that the Complainant has not licensed this to the Respondent.

Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

It has also been shown that the Respondent is not making any direct use of the disputed domain name, noting the disputed domain name does not resolve to an active website. The Respondent is not making a noncommercial or fair use of the disputed domain name, nor a *bona fide* offering of goods or services.

The Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant’s mark.

The disputed domain name reproduces the Complainant’s mark CARREFOUR in its entirety, with the addition of the terms “spasse” which makes the disputed domain name similar to the Complainant’s CARREFOUR PASS trademark.

The composition of the disputed domain name points towards the Respondent's likely intent to give an impression that the disputed domain name is associated with the Complainant. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that, it is more likely than not, that the disputed domain name has been registered to take advantage due to its value as a trademark owned by the Complainant.

The current passive holding of the disputed domain name is also evidence of bad faith from the Respondent. Previous UDRP panels have found that the apparent lack of so-called active use of the domain name without any active attempt to sell or to contact the trademark holder does not prevent a finding of bad faith. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); see also *Redcats S.A. And La Redoute S.A. v. Tumay Asena*, WIPO Case No. [D2001-0859](#); *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#).

Here, the Panel notes the distinctive and well-known nature of the Complaint's trademark CARREFOUR, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain name may be put, support a finding of bad faith.

In the totality of the circumstances, the Panel finds the Respondent has registered and is using the disputed domain name in bad faith.

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 <carrefourspasse.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: April 29, 2022