

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. mutate fading
Case No. D2025-0153

1. The Parties

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

The Respondent is mutate fading, Thailand.

2. The Domain Name and Registrar

The disputed domain name <es-carrefourpass-inicio.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 January 15, 2025. On January 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 15, 2025, 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 (originally-named Respondent) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 2025, 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 January 16, 2025.

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 January 22, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 11, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 12, 2025.

The Center appointed Pedro W. Buchanan Smith as the sole panelist in this matter on February 14, 2025. 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 Carrefour SA. The Complainant is a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968.

With a turnaround of 76 billion euros in 2018, 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. With more than 384.000 employees worldwide and 1.3 million daily unique visitors in its stores, the Complainant is without a doubt a major and well-known worldwide leader in retail. The Complainant additionally offers travel, banking, insurance, or ticketing services.

To that effect, the Complainant owns hundreds of trademark rights worldwide. In particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name:

- Brazil trademark CARREFOUR PASS No. 821744739, registered on August 2, 2005, duly renewed, and designating goods in international class 36;
- International trademark CARREFOUR PASS No. 719166, registered on August 18, 1999, duly renewed, and designating goods in international class 36;
- French trademark CARREFOUR PASS No. 99780481, registered on March 12, 1999, duly renewed, and designating goods in international class 36;
- European Union trademark CARREFOUR No. 008779498, registered on July 13, 2010, duly renewed, and designating goods in international class 35;
- International trademark CARREFOUR No. 563304, registered on November 6, 1990, duly renewed, and designating goods in international class 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42;
- French trademark CARREFOUR No. 1565338, registered on December 8, 1989, duly renewed, and designating goods in international class 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34;
- United States trademark CARREFOUR No. 6763415, registered on June 21, 2022, duly renewed, and designating goods in international class 35;

The Complainant submits that the earlier trademarks CARREFOUR and CARREFOUR PASS enjoy a wide-spread continuous reputation.

The Complainant also owns numerous domain names integrating "CARREFOUR" such as: <carrefour.com>, <carrefour.fr>, <carrefourpass.com>, <carrefourpass.net> registered on October 25, 1995, June 23, 2005, May 31, 2010, and October 16, 2013, respectively.

The Complainant uses all these domain names, amongst many others in order to develop its brand and promote its products and services. The Complainant contends it has demonstrated rights on the terms CARREFOUR and CARREFOUR PASS.

The Complainant's notoriety is also evidenced on the Internet. Indeed, the Complainant's Facebook page is currently "liked" by more than 11M Internet users. With almost 6,2M Internet users "liking" the CARREFOUR TikTok account, and more than 740k followers on the CARREFOUR Instagram account, the Complainant is commonly known for his name and products.

The disputed domain name resolves to an error page.

5. Parties' Contentions

A. Complainant

1. The Complainant submits that the disputed domain name is highly similar to the earlier trademark CARREFOUR and CARREFOUR PASS and that this creates a confusing similarity with the Complainant's trademarks.
2. The disputed domain name includes the earlier trademark CARREFOUR and CARREFOUR PASS. The disputed domain name is only different of the trademark by the addition of two generic terms: "es", which is the ISO code for Spain as well as the country-code Top-Level Domain ("ccTLD") for Spain, and "inicio" which means "start" in Spanish. This addition of generic terms does not significantly affect the appearance or pronunciation of the domain name. Adding descriptive, generic or geographic terms to a trademark in a domain name is not sufficient to avoid misleading internet users and to avoid creating a likelihood and confusion with the Complainant's trademark, and that because the trademark clearly stands out of the disputed domain name; in this case, the trademark CARREFOUR PASS is between two generic terms and separated from them by two hyphens, which makes the trademark very identifiable and recognizable. The domain name that consists in such composition should be regarded as confusingly similar to the Complainant's trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, and *Advance Magazine Publishers Inc. v. Arena International Inc.*, WIPO Case No. [D2011-0203](#).
3. The words "es" and "inicio", associated with the trademark increases the risk of confusion in the mind of the average Internet user. These terms are directly linked to the Complainant's commercial activity, which makes the confusion even more likely to occur in the mind of a consumer, who would expect to find the Complainant or an affiliated, seeing the disputed domain name. Indeed, the Complainant enjoys a solid reputation in Spain, country in which the Complainant's activity is very intensive, and the term "inicio" can refer to the activation of the CARREFOUR PASS credit card, which makes it very credible for the average Internet user to see the trademark CARREFOUR and CARREFOUR PASS associated with those terms.
4. The Respondent has never been authorized by the Complainant to use the trademarks CARREFOUR and CARREFOUR PASS in any manner. The Complainant never gave consent for the registration of the disputed domain name, neither in an explicit nor an implicit way. The Respondent is not a partner, distributor or licensee of the Complainant, and there is no contractual or commercial relationship between the Complainant and the Respondent which could eventually legitimate the registration and use of the disputed domain name by the Respondent.
5. There is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. This statement is reinforced by the fact that the Complainant has filed the present Complaint soon after the registration of the disputed domain name, intending to not allow the Respondent to be commonly known by the disputed domain name.

6. The Respondent has not, used or made preparations to use the disputed domain name in relation to a bona fide offering of goods or services. On the contrary, the disputed domain name resolves to an error page. This lack of content, indicating the absence of good faith offering of goods or services (bona fide offering), does not allow to witness any legitimate interest of the Respondent in the use of the disputed domain name.

7. The Complainant contends that the disputed domain name has been registered and is being used in bad faith. The Complainant's trademarks are intensively used in numerous countries worldwide, such as France, Spain, Italy and Brazil for instance. The Complainant enjoys a solid notoriety in these countries. The first CARREFOUR trademark being registered in 1968. This geographic presence and implantation, as well as the establishment of the reputation of the Complainant did require important investments. Regarding that, it is very likely that the Respondent knew the trademarks CARREFOUR and CARREFOUR PASS at the time of registration of the disputed domain name.

8. A simple search on an online search engine shows results only related to the Complainant. This Complaint show search results for "CARREFOUR" and "CARREFOUR PASS" on Microsoft Edge search engine (Microsoft Bing). All results relate to the Complainant.

9. The Complainant's CARREFOUR and CARREFOUR PASS trademark registrations predate the registration date of the disputed domain name. In this regard, previous panels have established that knowledge of the Complainant's intellectual property rights, including trademarks, at the time of registration of the disputed domain name, proves bad faith registration. A quick CARREFOUR and CARREFOUR PASS trademark search would have revealed to the Respondent the existence of the Complainant and its trademarks. Respondent's failure to do so is a contributory factor to its bad faith (*Lancôme Parfums Et Beaute & Cie, L'Oreal v. 10 Selling*, WIPO Case No. [D2008-0226](#)).

10. By reproducing the Complainant's trademark in the disputed domain name, the Respondent strengthens the impression that it is affiliated with the Complainant. This strategy of confusion, that could make Internet users wrongly believe that they are visiting an official website of the Complainant, or affiliated to the Complainant, is a typical example of bad faith use in cybersquatting cases. The use of the disputed domain name for the Website's URL suggests an intention by the Respondent to take profit from the trademarks CARREFOUR and CARREFOUR PASS's reputation, by redirecting Internet users to its website.

11. Although the disputed domain name is not actively used on the web, the Complainant contends that the non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. Indeed, and as specified in the [WIPO Overview 3.0](#), and discussed in the case *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), the relevant issue is not limited to whether the Respondent is undertaking a positive action in bad faith in relation to the domain name, but instead whether, in all the circumstances, it can be said that the Respondent is acting in bad faith. The distinction between undertaking a positive action in bad faith and acting in bad faith may seem a rather fine distinction, but it is an important one. The significance of the distinction is that the concept of a domain name "being used in bad faith" is not limited to positive action.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy directs that the Complainant must prove the presence of each of the following elements:

- (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

Complainant is the owner of the CARREFOUR and CARREFOUR PASS trademark as evidenced by trademark and service mark registrations shown in its Complaint. See [WIPO Overview 3.0](#) at 1.2.1 (“Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.”).

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.

The disputed domain name incorporates the Complainant’s CARREFOUR PASS in its entirety. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “es” and “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 addition of the generic Top-Level Domain (“gTLD”) “.com” is just a standard registration requirement and as such may be disregarded when assessing confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.11.1.

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.

In summary, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and Complainant provided sufficient evidence of the above, under paragraph 4(c) of the Policy.

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 Respondent by reproducing the Complainant's trademark in the disputed domain name, pretended to generate the impression that it is affiliated with the Complainant. This strategy of confusion, that could make Internet users wrongly believe that they are visiting an official website of the Complainant, or affiliated to the Complainant, is a typical example of bad faith use in cybersquatting cases.

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.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, 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.

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-inicio.com> be transferred to the Complainant.

/Pedro W. Buchanan Smith/

Pedro W. Buchanan Smith

Sole Panelist

Date: February 28, 2025