

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Privacy service provided by Withheld for Privacy ehf /  
qibogihug qibogihuga  
Case No. DME2022-0011

### **1. The Parties**

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / qibogihug qibogihuga, France.

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

The disputed domain name <carrfourpass.me> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 13, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 June 14, 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 June 15, 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 June 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 6, 2022.

The Center appointed William Lobelson as the sole panelist in this matter on July 8, 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 Carrefour, a French and worldwide retail group, devoted to the operation of hypermarkets.

The Complainant is the owner of numerous trademarks for or incorporating CARREFOUR, including:

- International trademark for CARREFOUR No. 351147, registered on October 2, 1968, duly renewed, and designating goods in international classes 1 to 34.
- International trademark for CARREFOUR No. 353849, registered on February 28, 1969, duly renewed and designating services in international classes 35 to 42.
- EUIPO trademark CARREFOUR No. 5178371, registered on August 30, 2007, duly renewed, and designating services in international classes 9, 35 and 38;
- International trademark CARREFOUR PASS No. 719166, registered on August 18, 1999, duly renewed, and designating services in international class 36.

The Complainant is also the owner of the domain name <carrefour.com>, registered since 1995.

The disputed domain name is <carrfourpass.me>, registered on April 1, 2022. It resolves to an inactive webpage.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith. The Complainant requests the transfer of the disputed domain name.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

### **A. Identical or Confusingly Similar**

The Complainant is the owner of numerous CARREFOUR formative trademarks, including a trademark registration for CARREFOUR PASS.

The disputed domain name is <carrfourpass.me>. It imitates the Complainant's trademarks CARREFOUR and CARREFOUR PASS.

In particular, the disputed domain name only differ from the Complainant's CARREFOUR PASS mark by one letter: the removal of the letter 'e'.

As stated under WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.9, "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

Furthermore, the addition of the Top-Level Domain ("TLD") ".me" does not prevent a finding of confusing similarity.

Consequently, the Panel finds that the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under UDRP, paragraph 4(c) include the following:

- (i) before any notice of the dispute, the Respondent's use of, or 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 and services;
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the Respondent has not filed a response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The Complainant has made a *prima facie* case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant further contends that the Respondent is not known under the disputed domain name, does not own any proprietary rights in the name "Carrfourpass" and does not make any *bona fide* use – neither commercial nor noncommercial, of the same.

The Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Complainant has substantiated the fact that its trademark CARREFOUR, which has been registered and used for years, now benefits from a high level of public's awareness, particularly – but not only – in France.

Earlier UDRP decisions have acknowledged the Complainant's trademark reputation:

*Carrefour v. rabie nolife*, WIPO Case No. [D2019-0673](#); *Carrefour v. Jane Casares, NA*, WIPO Case No. [D2018-0976](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#); *Carrefour v. Tony Mancini, USDIET Whoisguard, Inc.*, WIPO Case No. [D2015-0962](#); *Carrefour v. VistaPrint Technologies Ltd.*, WIPO Case No. [D2015-0769](#); *Carrefour v. Park KyeongSook*, WIPO Case No. [D2014-1425](#); *Carrefour v. Yujinhua*, WIPO Case No. [D2014-0257](#); *Carrefour v. Karin Krueger*, WIPO Case No. [D2013-2002](#); *Carrefour S.A. v. Patrick Demestre*, WIPO Case No. [D2011-2248](#); *Carrefour v. groupe carrefour*, WIPO Case No. [D2008-1996](#); *Carrefour SA v. Eric Langlois*, WIPO Case No. [D2007-0067](#).

When the identity of the Respondent was disclosed by the Registrar, it was found that that the said Respondent had declared a place of residence in France. Even though one may question the accuracy of the Respondent's details, as both name and address appear fanciful, the Panel finds that the fact that the Respondent chose to declare an address of residence in France – which is the home country of the Complainant, reveals that it could not reasonably be unaware of the Complainant's rights when it registered the disputed domain name.

The Panel observes besides, that the Respondent made the choice of associating to the deliberately misspelled trademark CARREFOUR with the addition of the term "pass", which the Complainant also uses as CARREFOUR PASS and for which it owns trademark protection. For this Panel it is a clear indication that the Respondent necessarily had the Complainant's trademarks in mind when it registered the disputed domain name, and intended to distract Internet users searching for the Complainant's services and products.

It is emphasized that the Respondent has registered the disputed domain name by using the fraudulent technique of "typosquatting".

And that it has obviously declared inaccurate details when registering the domain name, in attempt to conceal its true identity, as it appears that the name and address given are fanciful.

The Panel infers from the above that the Respondent acted in bad faith when it registered the disputed domain name.

It is further noted that the disputed domain name is not being actively used by the Respondent, and does not resolve to any active web page with substantive content.

It is a consensus view among UDRP panels that, with comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name, does not prevent a finding of bad faith.

The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

Examples of what may be cumulative circumstances found to be indicative of bad faith include the Complainant having a well-known trademark and no response to the Complaint having been filed. UDRP panels may draw inferences about whether a domain name is used in bad faith given the circumstances surrounding registration.

As stated in [WIPO Overview 3.0](#), section 3.3, there is a consensus view about “passive holding”:

“From the inception of the UDRP, panelists 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. While 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, (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.”

Such passive holding is to be regarded as use in bad faith (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#); *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#); *Westdev Limited v. Private Data*, WIPO Case No. [D2007-1903](#); *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#); *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)).

The Panel further finds that passive holding of the disputed domain name in this case does not prevent a finding of 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 <carrfourpass.me> be transferred to the Complainant.

*/William Lobelson/*

**William Lobelson**

Sole Panelist

Date: July 14, 2022