

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. MOUKA BOAMIRA

Case No. D2022-4568

1. The Parties

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

The Respondent is MOUKA BOAMIRA, Denmark.

2. The Domain Names and Registrar

The disputed domain names <pass-carrefourapp.com> and <pass-carrefourapp.net> are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <pass-carrefourapp.com>. On December 1, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <pass-carrefourapp.com> which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 2, 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 December 6, 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 December 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2023.

On December 12, 2022, the Complainant sent an email to the Center requesting the addition of another domain name in the dispute, <pass-carrefourapp.net>. The Center confirmed receipt of this email

communication on December 22, 2022, also advising that such request would be addressed by the Panel, once appointed.

The Center appointed Marilena Comanescu as the sole panelist in this matter on January 19, 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.

Following the Complainant's request of December 12, 2022, to add the domain name <pass-carrefourapp.net> (the "Additional Domain Name") to the proceeding, on January 25, 2023, the Panel issued a Panel Order requesting the Center to obtain registrar verification for the Additional Domain Name, to notify the Respondent that the Additional Domain Name has been added to the proceeding and to invite the Complainant to submit an amendment to its Complaint, and to grant the Respondent seven calendar days to submit its potential comments in relation to the Additional Domain Name. On January 25, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant for the Additional Domain Name and providing the contact details. On January 26, 2023, the Center informed the Complainant of the Registrant information inviting the Complainant to submit an amendment to the Complaint. The Complainant submitted its amended Complaint on January 27, 2023. The Notification of Amended Complaint was notified to the Parties on January 31, 2023. The due date for Response was February 7, 2023. The Respondent did not submit a Response.

4. Factual Background

The Complainant is a worldwide leader in retail and a pioneer of the concept of hypermarkets back in 1968. With a turnaround of EUR 76 billion 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 and employs more than 384,000 employees worldwide.

The Complainant owns several hundred trademark rights worldwide for CARREFOUR, such as the following:

- the International word trademark CARREFOUR registration No. 351147 registered on October 2, 1968, for goods in International Classes 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, and 34; and
- the International word trademark CARREFOUR registration No. 353849 registered on February 28, 1969, for services in International Classes 35, 36, 37, 38, 39, 40, 41 and 42.

The Complainant owns numerous domain names for CARREFOUR, such as <carrefour.com> registered since 1995 (for its main website) and <pass-carrefour.com> registered since 2019.

The disputed domain names <pass-carrefourapp.com> and <pass-carrefourapp.net> were both registered on November 22, 2022, and at the time of filing of the Complaint they were not actively used.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its well-known trademark CARREFOUR, that the Respondent has no rights or legitimate interests in the disputed domain names and that the Respondent registered and is using the disputed domain names in bad faith. The Complainant requests the transfer of the disputed domain names to it.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the concurrence of the above circumstances.

A. Preliminary Procedural Issue: Consolidation of Multiple Disputed Domain Names

On December 12, 2022, the Complainant sent an email to the Center requesting the addition of another domain name in the dispute, <pass-carrefourapp.net>.

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

The present disputed domain names: (i) were registered in the name of the same registrant, with the same Registrar and on the same day; (ii) were created in a similar manner, reproducing the Complainant's trademark together with additional identical terms – *i.e.* “pass” and “app”; and (iii) were both connected to inactive pages.

The Respondent had the opportunity to comment on the consolidation request made by the Complainant but it chose to remain silent.

For the above, the Panel finds that the disputed domain names are registered by the same person and it would be equitable and procedurally efficient to decide the consolidation of multiple disputed domain names in the present procedure. See also section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

B. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the CARREFOUR trademarks.

The disputed domain names <pass-carrefourapp.com> and <pass-cerrefourapp.net> incorporate the Complainant's trademark CARREFOUR in its entirety with the additional terms “pass” and “app”. However, such additions do not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain names.

Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not avoid a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain (“gTLD”) (e.g., “.net”, “.com”, “.tv”) may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name.

Given the above, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademark CARREFOUR, pursuant to the Policy, paragraph 4(a)(i).

C. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license or authorization whatsoever to use the mark CARREFOUR, that the Respondent is not commonly known by the disputed domain names, and that the Respondent has not used the disputed domain names in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

Under the Policy, “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant’s contentions to advance a claim to any rights or legitimate interests in the disputed domain names.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain names or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use under the disputed domain names. In fact both the disputed domain names are kept inactive and this does not amount to a *bona fide* or legitimate noncommercial or fair use.

In addition, and without prejudice to the above, UDRP panels have found that domain names identical or highly similar to a complainant’s trademark carry a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#). In this case, the Panel also notes that the disputed domain names are very similar to the Complainant’s domain name <pass-carrefour.com>.

Consequently, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names, pursuant to the Policy, paragraph 4(a)(ii).

D. Registered and Used in Bad Faith

The Complainant holds trademark rights for CARREFOUR since 1968 and its trademark is well known worldwide in relation to hypermarket services. See also *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#), or *Carrefour SA v. ADAM DIONISIO*, WIPO Case No. [D2022-0421](#).

The disputed domain names were created in 2022 and incorporate the Complainant’s mark with non distinctive terms, “pass” and “app”.

From the above, the Panel finds that the disputed domain names were registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting its CARREFOUR trademark.

According to the case file documents before it, the Panel finds no evidence of actual use of the disputed domain names. From the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or “coming soon” or other similar inactive page) would not prevent a finding of bad faith under the doctrine of passive holding. 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 relevant circumstances found to be indicative of bad faith include the degree of distinctiveness or reputation of the complainant’s mark and the failure of the respondent to submit a response or to provide any evidence of actual or

contemplated good faith use. See section 3.3 of the [WIPO Overview 3.0](#).

As previously mentioned, the disputed domain names incorporate the Complainant's world famous trademark CARREFOUR, are very similar to the Complainant's domain name <pass-carrefour.com>, and the Respondent failed to participate in this proceeding.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain names in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 names <pass-carrefourapp.com> and <pass-carrefourapp.net> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: February 17, 2023