

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA v. Sahad Mohammed Riviera, Sahari Muti Inc  
Case No. D2023-4196

### **1. The Parties**

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

The Respondent is Sahad Mohammed Riviera, Sahari Muti Inc, Spain.

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

The disputed domain names <appcarrefour.digital>, <carrefourapp.digital> and <meucarrefour.site> are registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2023. On October 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 10, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 October 11, 2023, 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 October 12, 2023.

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 October 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 7, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on November 17, 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.

#### 4. Factual Background

The Complainant is a worldwide leader in retail and a pioneer of the hypermarket concept since 1963. The Complainant operates stores in more than 30 countries worldwide, including in Spain. The Complainant is listed on the index of the Euronext Paris Stock Exchange, and a Premium Partner of the Paris 2024 Olympic Games.

The Complainant owns, among others, the following trademark registrations:

Trademark	No. Registration	Jurisdiction	Date of Registration
<b>CARREFOUR</b>	<b>191353</b>	Benelux, Spain, Italy.	March 09, 1956
<b>CARREFOUR</b>	<b>351147</b>	Benelux, Italy, Monaco, Spain.	October 02, 1968
<b>CARREFOUR</b>	<b>353849</b>	Benelux, Croatia, Czech Republic, Estonia, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Monaco, Montenegro, Morocco, North Macedonia, San Marino, Serbia, Slovakia, Slovenia, Spain	February 28, 1969

The Complainant is the owner of numerous domain names, such as <carrefour.eu>, <carrefour.fr>, <carrefour.be>, <carrefour.es>, among others.

The disputed domain names <appcarrefour.digital>, <carrefourapp.digital> and <meucarrefour.site> were registered on July 17, 2023. They resolve to error pages.

#### 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 names.

Notably, the Complainant contends that:

It operates thousands stores in more than 30 countries worldwide, has more than 384,000 employees, and receives around 1.3 million daily visitors in its webstores.

Its fame and notoriety are also evidenced on the Complainant's social media pages, which are "liked" or "followed" by a million users.

### I. Identical or Confusingly Similar

That the disputed domain names are confusingly similar to the Complainant's well-known trademarks CARREFOUR.

That the disputed domain names incorporate the CARREFOUR trademark, with the addition of the words "meu", "digital", and/or "app", respectively, which fact is not sufficient to avoid confusing similarity.

That the addition of the words "app" and "digital" (in <appcarrefour.digital> and <carrefourapp.digital>) reinforces the false impression that the disputed domain names were registered by the Complainant with the objective of further developing its electronic commerce. As for the disputed domain name <meucarrefour.site> (which includes the Portuguese word "meu", meaning "my"), that it misleads users into imagining that the Complainant registered it in order to reinforce the personalization of its products and services.

### II. Rights or Legitimate Interests

That the Respondent is not commonly known by the disputed domain names.

That the Complainant has not granted any authorization to the Respondent to use the trademark CARREFOUR, which is strong evidence that the Respondent lacks legitimate interests.

That the Respondent has not used or prepared to use the disputed domain names in relation to a *bona fide* offering of goods and services. That, on the contrary, the disputed domain names resolve to error pages.

That the term "carrefour" has no meaning in Spanish, nor in Portuguese.

That the burden of proof is on the Respondent to establish his rights to or legitimate interests in the disputed domain name.

### III. Registered or Used in Bad Faith

That, considering that the Complainant's trademarks are well-known, it is not plausible that the Respondent was not aware of said trademarks when registering the disputed domain names.

That, given the distinctiveness and the reputation of the Complainant's trademarks, the Respondent undoubtedly had the Complainant's business identifiers in mind when registering the disputed domain names.

That the Respondent's choice of disputed domain names could not have been accidental and must have been influenced by the fame of the Complainant and its trademarks.

That previous panels appointed under the UDRP have established that the mere registration of a disputed domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a strong presumption of bad faith.

That the disputed domain names resolve to error pages, which means that the Respondent is making a passive use of the disputed domain names.

### **B. Respondent**

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

## 6. Discussion and Findings

Given the Respondent's failure to submit a formal response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

### 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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

It is well established in prior decisions issued under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the ".digital" and ".site" gTLDs to be irrelevant in the circumstances of the present case.

The Panel finds the entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms such as "app" and "meu" may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds that the disputed domain names are confusingly similar to the CARREFOUR trademark, since said disputed domain names include it entirely.

Based on the available record, 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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any authorization to the Respondent to use its trademark CARREFOUR, and that the Respondent has not been commonly known by the disputed domain name (see *Beyoncé Knowles v. Sonny*

*Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)).

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Associated Newspapers Limited v. Manjeet Singh*, WIPO Case No. [D2019-2914](#)).

The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Based on the available record, 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 Complainant and its trademark CARREFOUR are well-known. The Complainant conducts business through hundreds of stores in Spain, and owns several trademark registrations in said country, where the Respondent has declared to reside. Based on these facts, it is reasonable to conclude that the Respondent knew or should have known the Complainant and its trademark CARREFOUR at the time of registration of the disputed domain names, which under the circumstances of this case constitutes bad faith registration under the Policy (see section 3.2.2 of the [WIPO Overview 3.0](#)).

The fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's well-known trademark CARREFOUR shows that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#)).

Previous panels appointed under the UDRP have found that the mere registration of a domain name that is identical or confusingly similar to a widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). This is so in the present case because the CARREFOUR trademark is well-known and extensively used worldwide, including in Spain.

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. Having reviewed the record, the Panel finds the non-use of the disputed domain names do not prevent a finding of bad faith in the circumstances of this proceeding. 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness, reputation and well-known nature of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

## 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, <appcarrefour.digital>, <carrefourapp.digital>, <meucarrefour.site> be transferred to the Complainant

*/Kiyoshi Tsuru/*

**Kiyoshi Tsuru**

Sole Panelist

Date: December 1, 2023