

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. CARLOS ABADIO DE CASTRO

Case No. D2024-1080

1. The Parties

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

The Respondent is CARLOS ABADIO DE CASTRO, Brazil.

2. The Domain Name and Registrar

The disputed domain name <mercadoentregarapidacarrefour.online> (the “Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domain Admin/Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 14, 2024 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 15, 2024.

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 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2024.

The Center appointed Enrique Bardales Mendoza as the sole panelist in this matter on April 26, 2024. 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 hypermarkets. The Complainant operates more than 12,000 stores in more than 30 countries worldwide. Furthermore, The Complainant has more than 384,000 employees worldwide and 1.3 million daily unique visitors in its stores. Lastly, The Complainant has been present in Brazil since 1975 and can currently count on more than 140 hypermarkets, 50 supermarkets, and 140 express convenience stores.

The Complainant is the owner of numerous trademarks, including:

- International trademark CARREFOUR registered under Registration N° 351147 on October 2, 1968, for goods in international classes 1 to 34.
- International trademark CARREFOUR registered under Registration N° 353849 on February 28, 1969, for services in international classes 35 to 42.
- European Union trademark CARREFOUR registered under Registration N° 5178371 on August 30, 2007, for goods and services in international classes 9, 35 and 38.
- Brazil trademark CARREFOUR registered under Registration N° 6314210 on May 10, 1976, for services in international class 38.

The Domain Name was registered on February 8, 2024. Firstly, on February 12, 2024, the Domain Name was accessible and it was possible to see that the Complainant's trademark was displayed on the top of the Respondent's website purportedly offering for sale various third party goods through this online store. Then, at the time of filing of the Complaint, the website at the Domain Name was no longer active. Lastly, at the time of issuance of this decision, the Domain Name is inaccessible since it is not possible to connect to its host server.

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 name.

B. Respondent

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

6. Discussion and Findings

In an UDRP procedure, according to paragraph 4(a) of the Policy, the Complainant must establish the following elements:

- (i) the 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 of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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 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.

The Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the 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 the terms "mercado" (which may mean "marketplace" in English), "entrega" (which may mean "delivery" in English), and "rapida" (which may mean "quickly" in English) may bear on assessment of the second and third element, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Lastly, the addition of the generic Top-Level Domain ("gTLD") ".online" to the Domain Name has no relevance in this case since it is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

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 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 Domain Name such as those enumerated in the Policy or otherwise.

- (i) First of all, the Respondent has not submitted any response and has not claimed any rights or legitimate interests with respect to the Domain Name. As per the Complaint, the Respondent was not authorized to register the Domain Name.

- (ii) Secondly, the Respondent did not demonstrate, prior to the notice of the dispute, any use of the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services.
- (iii) Thirdly, based on the available record, the Respondent is not commonly known by the Domain Name.
- (iv) Fourthly, the Complainant has provided evidence showing that the Domain Name initially resolved to a website displaying the Complainant's trademark and allegedly offering for sale various third party products through this online store. Further, the website does not appear to have accurately and prominently disclosed the lack of relationship between the Respondent and the Complainant.

Considering the above, there is no evidence on record giving rise to any rights or legitimate interests in the Domain Name on the part of the Respondent within the meaning of paragraph 4(c) of the Policy.

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.

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.

The Panel concludes that the Respondent has registered and used the Domain Name in bad faith for the following reasons:

- (i) The CARREFOUR trademark had been widely used and registered by the Complainant before the Domain Name was registered.
- (ii) The Respondent could verify that the Complainant is the owner of the CARREFOUR trademarks by using a search engine for this purpose before registering the Domain Name.
- (iii) The Complainant and its trademarks are widely known and may have suffered bad reputation because the Domain Name incorporates the CARREFOUR trademark in its entirety and the previous use of the Domain Name.
- (iv) Although, the Domain Name is not currently active and functional, after having reviewed the Complainant's evidence of the website linked to the Domain Name, the Panel is of the opinion that the Respondent has intentionally registered the Domain Name in order to generate traffic to its own website. The Panel notes that the Respondent does not appear to have published an accurate and prominent disclaimer on its website to explain that there is no existing relationship between the Respondent and the Complainant. On the contrary, the prominent use of the CARREFOUR trademark of the Complainant on the associated website as well as the inherently misleading nature of the Domain Name is, in view of the Panel, sufficient evidence that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation or endorsement of its website. [WIPO Overview 3.0](#), section 3.1.4.
- (v) Further, the Panel finds that the lack of Response supports Panel's finding of bad faith.

Based on the available record, 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 <mercadoentregarapidacarrefour.online> be transferred to the Complainant.

/Enrique Bardales Mendoza/

Enrique Bardales Mendoza

Sole Panelist

Date: May 10, 2024