

ADMINISTRATIVE PANEL DECISION

Carrefour SA v. Roberto Santiago, Atena3d; Sergio Fernando, VEGAS IMPORTACAO; Richard Ramos
Case No. D2024-1316

1. The Parties

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

The Respondents are Roberto Santiago, Atena3d, Brazil; Sergio Fernando, VEGAS IMPORTACAO, Brazil; Richard Ramos, Brazil.

2. The Domain Names and Registrars

The disputed domain names <carrefoourloja.online>, <carrefourloja.online>, <carrefourlojas.online>, <liquidacaocarrefour.online>, <liquidacaocarrefours.online>, <liquidacarrefour.online>, <liquidacarrefourr.online>, <lojacarreefour.online>, <ofertascarrefourr.online>, <ofertascarrefour.online>, <ofertascarrefours.online>, <ofertasonlinecarrefour.online>, <ofertasscarrefour.online>, and <sitecarrefour.online> are registered with Hostinger Operations, UAB (“the Registrar”). The disputed domain name <carrefourdescontos.com> is registered with Realtime Register B.V (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 28, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On April 2 and 3, 2024, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy and Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 3, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on April 8, 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 Respondents of the Complaint, and the proceedings commenced on April 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on April 30, 2024.

The Center appointed Olga Zalomiy as the sole panelist in this matter on May 2, 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 French multinational company, which specializes in retail services. In addition, the Complainant offers travel, banking, ticketing and other services. The Complainant is the registered owner of several hundred CARREFOUR trademarks, which include:

- the International Registration No. 351147, for the CARREFOUR mark, registered on October 2, 1968 (renewed);
- the International Registration No. 353849, for the CARREFOUR mark, registered on February 28, 1969 (renewed);
- Brazilian registration No. 006314210, for the CARREFOUR mark, registered on May 10, 1976 (renewed).

Previous panels recognized well-known status of the Complainant’s trademark¹.

The Complainant owns the domain name <carrefour.com.br> linked to its official website, facilitating the sale of goods in Brazil, where the Respondents reside.

The Respondent Sergio Fernando, VEGAS IMPORTACAO registered the disputed domain names:

- <ofertascarrefour.online> on February 10, 2024
- <ofertasonlinecarrefour.online> on February 13, 2024
- <ofertasscarrefour.online> on February 19, 2024
- <liquidacarrefour.online> on February 23, 2024
- <liquidacaocarrefour.online> on February 24, 2024

The Respondent Richard Ramos registered the disputed domain name <carrefourdescontos.com> on February 18, 2024.

The Respondent Roberto Santiago, Atena3d registered the disputed domain names:

- <liquidacarfourr.online> and <liquidacaocarfourr.online> on March 4, 2024
- <carrefourloja.online> on March 5, 2024
- <carrefourlojas.online> on March 6, 2024
- <carrefourloja.online> and <sitecarrefour.online> on March 7, 2024

¹ *Carrefour v. Jose Gaudet*, WIPO Case No. [D2018-2864](#); *Carrefour v. Giuseppe Bottos*, WIPO Case No. [D2017-0587](#); *Carrefour v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Eliana Maria Lima*, WIPO Case No. [D2017-2468](#).

<lojacarreefour.online> on March 12, 2024
<ofertascarefourr.online> on March 17, 2024
<ofertascarrefours.online> on March 22, 2024

Initially, the disputed domain names <carrefoourloja.online>, <liquidacarreefour.online> and <ofertascarrefours.online> directed to virtually identical websites purportedly offering for sale various products, but were deactivated later. Currently, none of the disputed domain names directs to an active website.

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 the disputed domain names are confusingly similar to its earlier well-known CARREFOUR trademarks because the Complainant's mark is recognizable in the disputed domain names. The Complainant argues that the inclusion of the generic terms in Portuguese such as "descontos", "liquida", "loja" and "ofertas", which mean "discount", "offer", "store" and "sale" in English fails to alleviate the confusion between the disputed domain names and the Complainant's trademark. The Complainant submits that the disputed domain names <carrefoourloja.online>, <liquidacarreefourr.online>, <lojacarreefour.online>, <ofertascarefourr.online> and <ofertascarrefours.online> consist of misspellings of the Complainant's CARREFOUR trademark, which makes them confusingly similar to the CARREFOUR mark for purposes of the first element of the UDRP.

The Complainant submits that the Respondents have no rights or legitimate interests in the disputed domain names because (i) the Respondents do not have any trademark rights in the CARREFOUR term, (ii) there is no evidence that the Respondents are commonly known by the disputed domain names, (iii) the Complainant did not authorize the Respondents' use of the CARREFOUR trademark in the disputed domain names or in any other form, (iv) the Respondents have not used or made preparations to use the disputed domain names for bona fide offering of goods or services. The Complainant contends that the Respondents used the disputed domain names <carrefoourloja.online>, <liquidacarreefourr.online> and <ofertascarrefours.online> in connection with websites impersonating the Complainant's official website. The Complainant argues that the passive holding of all of the disputed domain names does not amount to a bona fide offering of goods or services or to a legitimate noncommercial or fair use.

The Complainant asserts that the registration of the disputed domain names was done in bad faith, as evidenced by the fact that the Respondents registered them with the Complainant's name and trademark in mind. The Complainant argues that the websites associated with the disputed domain names <carrefoourloja.online>, <liquidacarreefourr.online>, and <ofertascarrefours.online> created an impression of affiliation with the Complainant, intending to mislead Internet users and create confusion regarding the source, sponsorship, or endorsement of these sites. Additionally, the Complainant highlights that its trademark registrations significantly precede the registration of the disputed domain names, indicating the Respondents' knowledge of the Complainant's name and mark. The Complainant contends that the Respondents' use of the disputed domain names constitutes bad faith, as it prevents the Complainant from securing domain names reflecting its name and trademarks. Despite the current non-use of the disputed domain names, the Complainant argues that the Respondents' prior use demonstrates bad faith. Finally, the Complainant asserts that any claim of good faith use of the disputed domain names is not viable.

B. Respondents

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

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that various factors collectively suggest that the disputed domain names are under common control:

- 1) the Respondent Roberto Santiago, Atena3d registered the disputed domain names <ofertascarrefourr.online> and <ofertascarrefours.online>, while the Respondent Sergio Fernando VEGAS IMPORTACAO registered the disputed domain names <ofertascarrefours.online>, <ofertasonlinecarrefourr.online>, and <ofertascarrefourr.online>. These disputed domain names share the same terms "ofertas" and the Complainant's trademark (misspelled or spelled correctly), along with the generic Top-Level Domain ("gTLD") ".online".
- 2) the Respondent Sergio Fernando, VEGAS IMPORTACAO registered the disputed domain names <liquidacaocarrefourr.online> and <liquidacarrefourr.online>, while the Respondent Roberto Santiago, Atena3d registered the disputed domain names <liquidacaocarrefours.online> and <liquidacarrefourr.online>. All four disputed domain names contain the term "liquida" and the Complainant's mark, along with the gTLD ".online".
- 3) 14 out of 15 of the disputed domain names were registered by the Respondents Sergio Fernando, VEGAS IMPORTACAO and Roberto Santiago, Atena3d with the Registrar Hostinger Operations, UAB.
- 4) all three Respondents reside in Brazil, with two of them, Sergio Fernando, VEGAS IMPORTACAO and Richard Ramos, residing in the state of Sao Paulo.
- 5) apart from the disputed domain names <carrefourloja.online> and <ofertascarrefourr.online>, the remaining 13 disputed domain names share the same name servers.
- 6) the disputed domain names were registered with a short period of time, i.e., between February 10, and March 22, 2024.
- 7) on February 26, 2024, the disputed domain name <liquidacarrefourr.online> registered by Sergio Fernando, VEGAS IMPORTACAO was linked to a website displaying the Complainant's trademark and purportedly offering for sale various products. A month later, on March 25 and 26, 2024, the disputed domain names <carrefourloja.online> and <ofertascarrefours.online>, registered by Roberto Santiago, Atena3d, were linked to the websites that are virtually identical to the website associated with the disputed domain name <liquidacarrefourr.online>.

8) when the disputed domain names have become inactive, the disputed domain name <carrefourdescontos.com> registered by Richard Ramos has resolved to the same Shopify landing page as, e.g., the website associated with the disputed domain name <carrefoourloja.online> registered by Roberto Santiago, Atena3d.

9) the Respondents may have used fake or third party information to register the disputed domain names.

Moreover, none of the Respondents has contested the Complainant's assertion that the disputed domain names are under common control.

Regarding fairness and equity, the Panel finds no grounds why consolidating the disputes would be unfair or inequitable to any party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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.

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 mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The inclusion of the gTLD ".online" and ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1. Furthermore, the disputed domain names <carrefoourloja.online>, <liquidacarrefourr.online>, <lojacarreefour.online>, <ofertascarefourr.online>, <ofertascarrefours.online>, and <liquidacaocarrefours.online> that contain a misspelling of the Complainant's trademark are considered to be confusingly similar to such mark. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms here, "descontos", "liquida", "liquidacao", "loja", "lojas", "online", "site", "ofertas", and "ofertass" 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

The evidence on record shows that the Respondent is not commonly known by the disputed domain names.

The Panel notes the evidence provided by the Complainant shows that the disputed domain names <carrefoourloja.online>, <liquidacarrefour.online>, and <ofertascarrefours.online> initially directed to virtually identical websites displaying the Complainant's trademark and purportedly offering for sale various products. The evidence provided by the Complaint further shows that the Respondent displayed an email address associated with the Complainant's domain name <carrefour.com.br> on the website at the disputed domain name <carrefoourloja.online>. In this regard, panels have held that the use of a domain name for illegal activity, such as, impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. All of the disputed domain names are inactive now. Therefore, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names or uses them for a bona fide offering of goods or services. The Respondent has not been authorized by the Complainant to use the Complainant's well-known trademark in a domain name.

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 names. 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 names such as those enumerated in the Policy or otherwise.

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.

In the present case, the Panel notes that the Respondent registered 15 disputed domain names incorporating the Complainant's prior registered and well-known mark or a misspelling of the mark with descriptive terms, such as, "descontos", "liquida", "loja", and "ofertas", the Respondent's lack of rights or legitimate interests in the disputed domain names, coupled with the absence of a credible explanation for the Respondent's choice of the disputed domain names, and the Respondent's prior use of the three disputed domain names that directed to virtually identical websites displaying the Complainant's trademark, all indicate that the disputed domain names were registered in bad faith.

All of the disputed domain names are inactive. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the well-known status of the Complainant's trademark, the composition of the disputed domain names, the Respondent's

failure to submit a response 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.

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 names <carrefourloja.online>, <carrefourdescontos.com>, <carrefourloja.online>, <carrefourlojas.online>, <liquidacaocarrefour.online>, <liquidacaocarrefours.online>, <liquidacarrefour.online>, <liquidacarrefourr.online>, <lojacarrefour.online>, <ofertascarrefourr.online>, <ofertascarrefour.online>, <ofertascarrefours.online>, <ofertasonlinecarrefour.online>, <ofertassarrefour.online>, and <sitecarrefour.online> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: May 16, 2024