

ADMINISTRATIVE PANEL DECISION

Carrefour SA and Atacadão S.A. v. Lucas Raimundo Gomes (Atacadao Ofertas)

Case No. D2024-2586

1. The Parties

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

The Respondent is Lucas Raimundo Gomes (Atacadao Ofertas), Brazil.

2. The Domain Name and Registrar

The disputed domain name <atacadaoofertas.store> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 25, 2024. On June 25, 2024, the Center sent an email to the Registrar requesting information in connection with the disputed domain name. On June 25, 2024, the Registrar responded the email of the Center disclosing the registrant and its contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer 0171362608) and contact information in the Complaint. On June 26, 2024, the Center sent an email to the Complainant, providing the Registrant name and further contact information disclosed by the Registrar, and inviting the Complainant to amend the Complaint. The Complainant filed an amended Complaint on June 27, 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 June 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 22, 2024.

The Center appointed Simone Lahorgue Nunes as the sole panelist in this matter on July 25, 2024. The Panelist finds that it was properly constituted. The Panelist 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

Carrefour is a worldwide leader in retail and operates more than 12.000 stores in more than 30 countries worldwide. Atacadão is a Brazilian chain of warehouse stores established in 1960 and acquired by Carrefour group in 2007.

Both companies are hereinafter jointly referred to as “the Complainant”.

The Complainant has provided evidence of being the right holder of the trademark ATACADAO and ATACADÃO in several jurisdictions, hereinafter referred both together as “ATACADAO”: European Union Trademark Registration No. 012020194, registered on May 24, 2015; Brazilian Trademark Registrations No. 006785360, No. 006785344 and No.006937497, registered on October 10, 1978 and May 25, 1979, Argentine Trademark Registration No. 2426312, registered on February 24, 2011; and Moroccan Trademark Registration No. 97-148034, registered on November 15, 2012.

Furthermore, the Complainant has provided evidence of being the right holder of several domain names with the trademark ATACADAO. For instance, <atacado.com.br> was registered in 1997, by the Complainant.

The disputed domain name <atacadoofertas.store> was registered on June 4, 2024, by the Respondent.

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

The website of the disputed domain name is out of service.

5. Parties’ Contentions

A. Complainant

The Complainant affirms that the disputed domain name is confusingly similar to the Complainant trademark: ATACADAO. The Complainant contends that the disputed domain name reproduces the Complainant's trademark, which panels in earlier UDRP cases have considered to be well-known (see e.g., *Carrefour S.A and Atacadão S.A v. atacado varejo*, WIPO Case No. [D2023-3011](#), *Atacadão – Distribuição, Comércio e Indústria LTDA. v. seong-chea park*, WIPO Case No. [D2022-4615](#), *Carrefour S.A and Atacadão S.A v. Gabriel Silva*, WIPO Case No. [D2023-4424](#), *Carrefour S.A and Atacadão – Distribuição, Comércio e Indústria LTDA. v. Lohan Medina*, WIPO Case No. [D2023-1900](#) and *Carrefour S.A and Atacadão S.A v. Jaay Shop, privada*, WIPO Case No. [D2023-5152](#)). Additionally, the Complainant argues that the use of the top-level domain “.store” is not significant in determining whether the domain name is identical or confusingly similar to the trademarks of the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in respect to the disputed domain name and that the domain name was registered and is being used by him in bad faith. According to the Complainant, “the Respondent has acquired no trademark in the name ATACADAO (or term similar thereto) which could have granted the Respondent rights in the disputed domain name.” In addition, “[t]here is no evidence that the Respondent has been commonly known by the disputed domain name as an individual, business or other organization.” Finally, according to the Complainant, “the disputed domain name is inherently likely to mislead Internet users and its specific nature carries a high risk of implied affiliation with the Complainant as Internet users will understand it as a place where Complainant’s offers can be found.”

Therefore, the Complainant requests the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

The analysis of the Complainant's arguments and of the presented evidence leads to the conclusion that the Complaint should be upheld, based on the following grounds:

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panelist finds the mark is recognizable within the disputed domain name. Accordingly, the disputed 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 term "ofertas" may bear on assessment of the second and third elements, the Panelist finds that the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In light of these factors, the Panelist finds the first element of the Policy has been met.

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.

Having reviewed the available record, the Panelist finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Additionally, the use of part of the Complainant's name to register the disputed domain name as evidenced by the WhoIs, falsely suggests affiliation with the Complainant and points to an intention to confuse Internet users by leading them to think that the disputed domain name belongs to the Complainant or to one of the Complainant's group of companies. The Respondent did not provide any explanation whatsoever for the registration of the disputed domain name, and likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name or by the name "Atacadao Ofertas".

In light of these factors, the second element of the Policy has been met.

C. Registered and Used 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, including the use of the domain name to attract, for commercial gain, Internet users to the Respondent web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location. [WIPO Overview 3.0](#), section 3.1.4.

When the disputed domain name was registered in 2024, the trademark ATACADAO was already famous in Brazil and directly connected to the Complainant's retail services.

Therefore, the Panelist concludes that it would not be feasible to consider that the Respondent – reportedly a Brazilian resident– was not aware of the Complainant's trademark at the time of the registration of the disputed domain name, as well as that the adoption of the expression “atacadaoofertas” could be a mere coincidence.

In light of these factors, the third element of the Policy has been met.

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 <atacadaoofertas.store> be transferred to the Complainant.

/Simone Lahorgue Nunes/

Simone Lahorgue Nunes

Sole Panelist

Date: August 8, 2024