

ADMINISTRATIVE PANEL DECISION

Carrefour SA, Atacadão - Distribuição, Comércio E Indústria LTDA v. WIU fernando Menezes, WU LTDA
Case No. D2025-0587

1. The Parties

The Complainants are Carrefour SA, France and Atacadão - Distribuição, Comércio E Indústria LTDA, Brazil, represented by IP Twins, France.

The Respondent is WIU fernando Menezes, WU LTDA, Brazil.

2. The Domain Name and Registrar

The disputed domain name <supermercadoatacado.site> 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 February 14, 2025. On February 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 17, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown / Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainants on February 20, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on February 24, 2025.

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 February 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 26, 2025.

The Center appointed Petra Pecar as the sole panelist in this matter on April 1, 2025. 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 First Complainant, Carrefour SA, is a French public limited company established in 1959 and a global leader in retail, operating over 12,000 stores in more than 30 countries. The First Complainant employs over 384,000 people, serves 1.3 million daily online visitors, and reports an annual turnover of approximately EUR 80 billion. The First Complainant also offers services in travel, banking, insurance, and ticketing.

The Second Complainant is Atacadão - Distribuição, Comércio E Indústria LTDA, a Brazilian wholesale and retail chain founded in 1960, became a subsidiary of the First Complainant in 2007. With over 300 stores across Brazil, it focuses on bulk sales to businesses and consumers.

Carrefour SA and Atacadão - Distribuição, Comércio E Indústria LTDA together referred to as the Complainants.

The Complainants hold numerous Trademarks consisting of the term ATACADAO, including:

- The First Complainant's European Union word mark ATACADAO Registration No. 012020194, registered on May 24, 2015, for services in Class 35;
- The Second Complainant's Brazilian word mark ATACADÃO No. 006785344, registered on October 10, 1978; and
- The Second Complainant's Brazilian word mark ATACADAO No. 006937497, registered on May 25, 1979.

The disputed domain name was registered on February 6, 2025 and at the time of the Complaint filing it resolved to an inactive webpage displaying an error message.

The Respondent is based in Brazil.

5. Parties' Contentions

A. Complainant

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name <supermercadoatacado.site> is confusingly similar to their ATACADAO marks. The term "atacado" is the dominant and distinctive element and closely resembles the Complainants' marks, with only minor differences that do not avoid confusion. The addition of the term "supermercado" reinforces the connection, as the Complainants operate a well-known supermarket chain. The disputed domain name clearly evokes the Complainants' ATACADAO marks and creates association with their business.

The Complainants contend that their substantial social media following, comprising millions of users, reflects the well-known status of the ATACADAO marks. The well-known character of the ATACADAO marks has also been consistently recognized by previous panels findings, confirming its strong reputation and clear association with the Complainants' business.

The Complainants contend that the Respondent has no rights or legitimate interests in the disputed domain name <supermercadoatacado.site>. The Respondent is not authorized to use the ATACADA marks, is not known by the disputed domain name, and is not using it for any legitimate business. Its use via inactive pages shows no bona fide intent and appears to exploit the Complainants' well-known ATACADA marks.

The Complainants assert that the disputed domain name was registered and is being used in bad faith. The Respondent likely knew of the well-known ATACADA marks, which predates the disputed domain name's registration. The disputed domain name incorporates the ATACADA marks, and the use of a privacy service suggests intent to conceal identity. Though the disputed domain name is inactive, it is raising concerns about potential misuse.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainants' contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainants.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainants are required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used by the Respondent 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 disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainants have shown rights in respect of a 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 name. Accordingly, the disputed domain name is confusingly similar to the ATACADA marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The disputed domain name incorporates the term "atacado", which is a misspelled version of the Complainants' ATACADA marks. Specifically, it omits the second letter "a" in the final part of the ATACADA mark. Under [WIPO Overview 3.0](#), section 1.9, such minor variations in spelling do not prevent a finding of confusing similarity. The addition of the term "supermercado", which is merely descriptive of the Complainants' business in the retail and wholesale sector, and the use of the generic Top-Level Domain ("gTLD") ".site" does not prevent a finding of confusing similarity, in line with sections 1.7 and 1.11.1 Accordingly, the disputed domain name is considered confusingly similar to the Complainants' ATACADA marks.

Although the addition of other term “supermercado” may bear on assessment of the second and third elements, the Panel finds 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.

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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent does not appear to have any affiliation or connection with the Complainants and that the Complainants have not granted the Respondent any license, permission, or other authorization to use or register a domain name incorporating the Complainants’ ATACADAO marks. The Respondent has failed to submit a response to the Complaint and has therefore not provided any evidence or arguments to establish rights or legitimate interests in respect of the disputed domain name.

Furthermore, there is no indication that the Respondent has used, or made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor that the Respondent has made any legitimate noncommercial or fair use of the disputed domain name. At the time the Complaint was filed, the disputed domain name, <supermercadoatacado.site>, resolved to an inactive webpage displaying an error message. There was no evidence of any active use, commercial or otherwise, associated with the disputed domain name.

In light of the foregoing, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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 disputed domain name registered by the Respondent consists of the term “supermercado” combined with a modified version of the Complainants’ ATACADAO marks, specifically incorporating the term “atacado”. This version omits the second last letter “a” from the

Complainants' mark. The word "supermercado" is merely descriptive of the Complainants' business activities in the retail and wholesale sector.

The Panel finds that the Respondent's choice of the disputed domain name, incorporating a misspelled version of the Complainants' ATACADAO marks indicates an awareness of the Complainants and their ATACADAO marks at the time of registration. The Complainants' ATACADAO marks predate the disputed domain name registration by over 40 years. Given these factors, the Panel concludes that the disputed domain name was deliberately designed to create a misleading association with the Complainants and their activities. Accordingly, the disputed domain name was registered in bad faith.

Panels have found that the non-use of a domain name, displaying an error message as "Houve um erro." ("There was an error."), "This store is unavailable", and "O que posso fazer?" ("What can I do?") would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes distinctiveness of the ATACADAO mark due to the use of the mark for decades, and the composition of the disputed domain name (a combination of the descriptive term "supermercado" (meaning supermarket in English, which refers to the Complainants' business activity), and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainants have 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 <supermercadoatacado.site> be transferred to the Complainants.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: April 15, 2025