

## **ADMINISTRATIVE PANEL DECISION**

**Carrefour SA and Atacadão S.A. v. Ribeiro Mmsp, CLAUDEMIRO RAMOS,  
MARCELA CAROLINE DA SILVA CARDIAS COSTA COSTA**  
Case No. D2024-0261

### **1. The Parties**

The Complainants are Carrefour SA, France, and Atacadão S.A., Brazil, represented by IP Twins, France.

The Respondents are Ribeiro Mmsp, CLAUDEMIRO RAMOS, and MARCELA CAROLINE DA SILVA CARDIAS COSTA COSTA, Brazil.

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

The disputed domain names <atacadaocombr.shop>, <atacadaopreaprovado.shop>, <atacadaosolucoesfinanceiras.website>, and <atacadaosolucoes.site> are registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 25, 2024, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint.

The Center sent an email communication to the Complainants on February 1, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainants to either file separate Complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainants filed an amended Complaint on February 5, 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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on March 6, 2024.

The Center appointed Edoardo Fano as the sole panelist in this matter on March 13, 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.

The Panel has not received any requests from the Complainants or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a) "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainants (referred to below as "the Complainant") are Carrefour SA, a worldwide leader in retail, and Atacadão S.A., a Brazilian chain of wholesale and retail stores acquired by Carrefour in 2007. The Complainant owns several trademark registrations for ATACADÃO and ATACADAO, among which the following ones:

- Brazilian Trademark Registration No. 006785360 for ATACADÃO, registered on October 10, 1978;
- Brazilian Trademark Registration No. 006785344 for ATACADÃO, registered on October 10, 1978;
- Brazilian Trademark Registration No. 006937497 for ATACADAO, registered on May 25, 1979;
- European Union Trademark Registration No. 012020194 for ATACADAO, registered on May 24, 2015.

The Complainant also operates on the Internet, owning several domain name registrations including the mark ATACADAO, among which <atacado.com.br>.

The Complainant has provided evidence in support of the above.

According to the Whols records, the disputed domain names were registered on the following dates: <atacadaocombr.shop> and <atacadaopreaprovado.shop> on January 9, 2024, <atacadaosolucoesfinanceiras.website> on January 12, 2024, and <atacadaosolucoes.site> on January 11, 2024. The disputed domain name <atacadaosolucoes.site> is inactive, while the disputed domain names <atacadaocombr.shop>, <atacadaopreaprovado.shop>, and <atacadaosolucoesfinanceiras.website> redirect to potentially dangerous websites.

#### **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 states that the disputed domain names are confusingly similar to its trademarks ATACADÃO and ATACADAO.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names, it is not commonly known by the disputed domain names and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. The disputed domain name <atacadaosolucoes.site> is inactive, while the disputed domain names <atacadaocombr.shop>, <atacadaopreaprovado.shop>, and <atacadaosolucoesfinanceiras.website> redirect to potentially dangerous websites.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark ATACADÃO and ATACADAO are well known in the retail services field. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the passive holding of the disputed domain name <atacadaosolucoes.site>, as well as the use of the disputed domain names <atacadaocombr.shop>, <atacadaopreaprovado.shop>, and <atacadaosolucoesfinanceiras.website> in connection with websites containing potentially harmful material or used for fraudulent uses, qualifies as bad faith registration and use.

## **B. Respondents**

The Respondents have made no reply to the Complainant's contentions and are in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.3.

## **6. Discussion and Findings**

### **6.1 Procedural issue - Consolidation of 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. [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Complainant asserts that inter alia:

- all the disputed domain names follow a very similar naming pattern and resolve to inactive websites, although the navigation towards three of them triggers the same warning alert;

- all the disputed domain names have been registered within a very short period of time, namely between January 9 and January 12, 2024, through the same Registrar.

Considering the above and in the absence of any objection from the Respondents regarding the Complainant's consolidation request, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party in terms of fairness and equity.

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.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain names are 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 disputed domain names; and
- (iii) the disputed domain names have been registered and are 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 disputed domain names. [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 ATACADAO is reproduced 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.

While the addition of other terms, here "combr", "preaprovado" (meaning "preapproved" in Portuguese), "solucoes" (meaning "solutions" in Portuguese), and "solucoesfinaceiras" (meaning "financial solutions" in Portuguese), 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.

It is also well accepted that a generic Top-Level Domain ("gTLD"), in this case ".shop", ".site", and ".website", are typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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, UDRP 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 names. 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 present 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 disputed domain name <atacadaosolucoes.site> is inactive, while the disputed domain names <atacadaocombr.shop>, <atacadaopreaprovado.shop>, and <atacadaosolucoesfinanceiras.website> redirect to potentially dangerous websites.

Panels have held that the use of a domain name for illegal activity, here potentially fraudulent activities, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Moreover, the Panel finds that the composition of the disputed domain names carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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, regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant's trademarks ATACADÃO and ATACADAO in the retail services field is clearly established, and the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the confusingly similar disputed domain names.

The Panel further notes that the disputed domain names <atacadaocombr.shop>, <atacadaopreaprovado.shop>, <atacadaosolucoesfinanceiras.website> were also used in bad faith, since they redirect to potentially dangerous websites, likely in connection to a fraudulent scheme. [WIPO Overview 3.0](#), section 3.4.

As regards the disputed domain name <atacadaosolucoes.site>, directing to an inactive website, 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 name does 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 and reputation of the Complainant's trademarks, the composition

of the disputed domain names, and the failure of the Respondent 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.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain names, which include the Complainant's trademark ATACADAO in its entirety with the mere addition of the terms "combr", "preaprovado" (meaning "preapproved" in Portuguese), "solucoes" (meaning "solutions" in Portuguese), and "solucoesfinanceiras" (meaning "financial solutions" in Portuguese), further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes 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 <atacadaocombr.shop>, <atacadaopreaprovado.shop>, <atacadaosolucoesfinanceiras.website>, and <atacadaosolucoes.site> be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: March 27, 2024