

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA and Atacadão S.A. v. Roberto Gomes, ATACADO 01; Marcelo Pereira, ATACADO 03; Carlos Austin, My Store; Carlos Jose, My Store; Carlos Jose, Atacadao Brasil; Paulo Barbosa, ATACADO 07; Carlos Peixoto, My Store; Bruno Messias, My Store; Murilo Souza, My Store; Maria Souza, My Store; Gabriela Lorenzetti, Atacado; Paulo Junior, Minha loja; Jose Carlos, Atacado 01; Murilo Gomes, My Store; Bruno Soares, Atacado Mercado; Angelo Rossi, Minha loja; Pedro Peixoto, My Store; Paulo Wakanda, My Store; Lucas Pereira, Minha loja; Paulo Borges, Minha loja; mistie mistieolivermoss; Renato Albani; Anabel Marshall; Leandro Aparecido; Rodrigo sousa; Bento Ferreira; suport atacadao; Rosana Bueno; talita rosa da silva, TLT PAG; Joao Vinicius, My Store; Paulo Borges, Minha loja.

Case No. D2024-3935

### **1. The Parties**

The Complainants are Carrefour SA, France (the “First Complainant”) and Atacadão S.A., Brazil (the “Second Complainant”) represented by IP Twins, France.

The Respondents are Roberto Gomes, ATACADO 01, Brazil (“Alias 1”); Marcelo Pereira, ATACADO 03, Brazil (“Alias 2”); Carlos Austin, My Store, Brazil (“Alias 3”); Carlos Jose, My Store, Brazil (“Alias 4”); Carlos Jose, Atacadao Brasil, Brazil (“Alias 5”); Paulo Barbosa, ATACADO 07, Brazil (“Alias 6”); Carlos Peixoto, My Store, Brazil (“Alias 7”); Bruno Messias, My Store, Brazil (“Alias 8”); Murilo Souza, My Store, Brazil (“Alias 9”); Maria Souza, My Store, Brazil (“Alias 10”); Gabriela Lorenzetti, Atacado, Brazil (“Alias 11”); Paulo Junior, Minha loja, Brazil (“Alias 12”); Jose Carlos, Atacado 01, Brazil (“Alias 13”); Murilo Gomes, My Store, Brazil (“Alias 14”); Bruno Soares, Atacado Mercado, Brazil (“Alias 15”); Angelo Rossi, Minha loja, Brazil (“Alias 16”); Pedro Peixoto, My Store, Brazil (“Alias 17”); Paulo Wakanda, My Store, Brazil (“Alias 18”); Lucas Pereira, Minha loja, Brazil (“Alias 19”); Paulo Borges, Minha loja(207), Brazil (“Alias 20”); mistie mistieolivermoss, Brazil (“Alias 21”); Renato Albani, Brazil (“Alias 22”); Anabel Marshall, Brazil (“Alias 23”); Leandro Aparecido, Brazil (“Alias 24”); Rodrigo sousa, Brazil (“Alias 25”); Bento Ferreira, Brazil (“Alias 26”); suport atacadao, Brazil (“Alias 27”); Rosana Bueno, Brazil (“Alias 28”); talita rosa da silva, TLT PAG, Brazil (“Alias 29”); Joao Vinicius, My Store, Brazil (“Alias 30”); and, Paulo Borges, Minha loja(203), Brazil (“Alias 31”).

## 2. The Domain Names and Registrars

The disputed domain names <atacadaobrasilofc.com >, <atacadaobrasilofcc.com>, <atacadaobrasilofertas.com>, <atacadaobrasiloficiall.com>, <atacadaobrasilpromo.com>, <atacadaobrofficial.com>, <atacadaofertasbr.com>, <atacadaofertasbra.com>, <atacadaofertasbrasil.com>, <atacadaofertasoficial.com>, <atacadaofficial.com>, <atacadaolinebr.com>, <atacadaoljabr.com>, <atacadaomercado.com>, <atacadaomercadobr.com>, <atacadaomercadoof.com>, <atacadaooferta.com>, <atacadaoofficialbr.com>, <atacadaopromoc.com>, <atacadaositeofc.com>, <atacadaositeoficial.com>, <mercadoatacadao.com>, and <mercadoatacadaof.com> are registered with Tucows Inc (“Registrar A”).

The disputed domain names <atacadaocompre.online>, <atacadaoljabr.site>, <atacadaoljabr.store>, <atacadaoofficial.com>, and <markt-atacadao.online> are registered with Hostinger Operations, UAB (“Registrar B”).

The disputed domain names <atacadaoljaoficial.com>, <atacadaoljaonline.com>, <atacadaoljas.online>, <atacadaomercado.site> and <mercadoatacadaoficial.com> are registered with NameCheap, Inc. (“Registrar C”).

The disputed domain names will be referred to collectively as the “Domain Names”.

Individually and collectively, Tucows Inc., Hostinger Operations, UAB, and NameCheap, Inc. are referred to as the “Registrars”.

## 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 25, 2024. On September 26, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. Also on September 26, 2024, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondents (Contact Privacy Inc., Privacy Protect, LLC (PrivacyProtect.org), and Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainants on October 2, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainants to either file separate complaints for the 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 Complainants filed an amended Complaint on October 7, 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 October 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on November 14, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on November 19, 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 First Complainant is a retail company headquartered in France. It is listed on the Paris Stock Exchange and currently operates more than 12,000 stores in more than 30 countries worldwide. It has more than 384,000 employees worldwide and 1.3 million daily visitors to its stores.

The Second Complainant is a Brazilian chain of wholesale and retails stores established in 1960 and acquired by the First Complainant in 2007. It has over 300 stores and distribution centers in all the Brazilian states and more than 70,000 employees. The First and Second Complainant are hereinafter referred individually and collectively as the “Complainant”.

The Complainant owns trade mark registrations for the mark ATACADAO in many jurisdictions including the following:

- European Union Trade Mark Registration No. 012020194 for ATACADAO, registered on May 24, 2015.
- Brazil Trade Mark Registration No. 006785360 for ATACADAO, registered on October 10, 1978.
- Brazil Trade Mark Registration No. 006785344 for ATACADAO, registered on October 10, 1978.

(individually and collectively, the “Trade Mark”).

The Trade Mark is found in the domain name of the Complainant's official website at “www.atacado.com.br” (the “Complainant’s Website”). The Complainant also owns and uses a stylized A logo in connection with its goods and services including on its signage and in the Complainant’s Website (the “Logo”).

The 33 disputed domain names which are the subject of the proceeding resolve to websites which:

- (i) mimic the Complainant’s Website by using its copyright material including images, the Logo and other texts found on the Complainant’s Website without any disclaimer clarifying the (lack of) relationship between the Parties (“Copycat Website”); or
- (ii) are parking pages with pay- per- click (“PPC”) links to third party websites (“PPC links”); or
- (iii) are landing or error pages (“Inactive Website”).

(individually and collectively, the “Websites”).

The details of the disputed domain names (the “Domain Names”) and the Websites at the time of the filing of the Amended Complaint are set out below:

No.	Domain Name	Creation Date	Registrant Alias No.	Registrar	Websites and Comments
1	<atacadaobrasilofc.com >	August 31, 2024	Alias 1	A	Copycat Website
2	<atacadaobrasilofcc.com>	September 4, 2024	Alias 2	A	Copycat Website
3	<atacadaobrasilofertas.com>	September 16, 2024	Alias 3	A	Copycat Website
4	<atacadaobrasiloficiall.com>	September 8, 2024	Alias 4	A	Copycat Website
5	<atacadaobrasilpromo.com>	September 9, 2024	Alias 5	A	Copycat Website
6	<atacadaobrofficial.com>	September 22, 2024	Alias 6	A	Copycat Website
7	<atacadaofertasbr.com>	August 29, 2024	Alias 7	A	Copycat Website

8	<atacadaofertasbra.com>	September 10, 2024	Alias 8	A	Copycat Website
9	<atacadaofertasbrasil.com>	September 13, 2024	Alias 9	A	Copycat Website
10	<atacadaofertasoficial.com>	September 19, 2024	Alias 10	A	Copycat Website
11	<atacadaoficial.com>	August 21, 2024	Alias 11	A	Copycat Website
12	<atacadaolinebr.com>	August 21, 2024	Alias 12	A	Copycat Website
13	<atacadaolojabr.com>	September 3, 2024	Alias 13	A	Copycat Website
14	<atacadaomercado.com>	August 23, 2024	Alias 14	A	Copycat Website
15	<atacadaomercadobr.com>	August 24, 2024	Alias 30	A	Copycat Website
16	<atacadaomercadoof.com>	August 27, 2024	Alias 20	A	Copycat Website
17	<atacadaooferta.com>	August 27, 2024	Alias 15	A	Copycat Website
18	<atacadaooficialbr.com>	August 27, 2024	Alias 14	A	Copycat Website
19	<atacadaopromoc.com>	August 29, 2024	Alias 16	A	Copycat Website
20	<atacadaositeofc.com>	September 13, 2024	Alias 17	A	Inactive Website
21	<atacadaositeoficial.com>	August 28, 2024	Alias 18	A	Copycat Website
22	<mercadoatacadao.com>	August 23, 2024	Alias 19	A	Copycat Website
23	<mercadoatacadaof.com>	August 27, 2024	Alias 31	A	Inactive Website
24	<atacadaocompre.online>	September 2, 2024	Alias 28	B	Inactive Website
25	<atacadaolojabr.site>	September 6, 2024	Alias 25	B	Copycat Website
26	<atacadaolojabr.store>	September 2, 2024	Alias 26	B	Copycat Website
27	<atacadaooficial.com>	September 20, 2024	Alias 29	B	Copycat Website
28	<markt-atacadao.online>	August 27, 2024	Alias 27	B	Inactive Website
29	<atacadaolojaoficial.com>	September 2, 2024	Alias 21	C	Copycat Website
30	<atacadaolojaonline.com>	August 19, 2024	Alias 22	C	PPC Links
31	<atacadaolojas.online>	August 25, 2024	Alias 23	C	Inactive Website
32	<atacadaomercado.site>	September 11, 2024	Alias 24	C	Copycat Website
33	<mercadoatacadaoficial.com>	September 9, 2024	Alias 24	C	Inactive Website

## **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Names.

Notably, the Complainant contends that the Domain Names are identical and/or confusingly similar to the Trade Mark in which it has rights, that the Respondents have no rights or legitimate interests with respect to the Domain Names, and that the Domain Names were registered and are being used in bad faith. The Complainant requests transfer of the Domain Names.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue**

#### **A. 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 Domain Name registrants pursuant to paragraph 10(e) of the Rules.

The 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 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 the following:

- (1) All the Domain Names include the Trade Mark as part of the Domain Names;
- (2) All the Domain Names share a similar naming pattern, combining the Trade Mark and the same recurring terms e.g. "brasil", "loja(s)", "mercado" and "ofertas", all of which relate to the Complainant's business activities; combining the trade mark and typos of the above terms and various other common words e.g. "official", "promo";
- (3) All the Domain Names are registered within a very short time frame, between August 19 and September 22, 2024;
- (4) 26 out of the 33 Domain Names (Alias 1-16, 18-21, 24-26, 29, and 30) resolved to almost identical Copycat Websites even though registered to nominally different registrants and across all three Registrars;
- (5) All the Domain Names have registrants which are supposedly based in Brazil which is where the Complainant is headquartered and well known.
- (6) Many of the registrants appear to share the same organisation name "My Store" or "Minha loja" which means "My Store" in English (Alias 3, 4, 7, 8, 9,10, 12, 14, 16, 17, 18, 19, 20, 30, and 31). This suggests that they are likely to be a made up organizational name;
- (7) Alias 20 and 31 have the same names and almost identical addresses;

- (8) Many of the registrants have the organizational name “Atacado”, some followed by a numeral (Alias 1, 2, 6, 11, 13, 15) suggests a batch of registrant contacts were created in sequence, without any connection with existing organisations.
- (9) The same street address is associated with different registrants – alias 22 has the same address as Alias 21 and Alias 17 has the same address as Alias 18. Alias 4 and Alias 5 share the same address and contact details.
- (10) All the email addresses of the registrants are provided by Gmail and Outlook and most of them share a similar naming pattern (i.e. name+number@outlook.com or name+number@gmail.com). In many of the cases, the name in the email address does not match the registrant's name.
- (11) Many of the email addresses provided are not valid addresses as emails sent by the Complainant's representatives resulted in error messages in response.
- (12) 21 of the 23 Domain Names registered with Registrar A resolved to the Copycat Websites. The two remaining Domain Names, Domain Names 20 (Alias 17) and 23 (Alias 31) both are in the “My Store”, “Minha loja” group as stated in (6) above;
- (13) Three of the five Domain Names registered with Registrar B resolved to Copycat Websites. The two remaining Domain Names, Domain Name 24 (Alias 28) was registered on September 2, 2024, which is the same date as Domain Names 26 (Alias 26) and 29 (Alias 21) both of which resolve to Copycat Websites whilst Domain Name 28 (Alias 27) was registered on August 27, 2024, the same date as Domain Names 16, 17, and 18 all of which resolve to Copycat Websites.
- (14) Two of the five Domain Names registered with Registrar C resolved to Copycat websites.
- (15) The Respondents failed to file responses.

The evidence submitted points to the fact that all the Domain Names are subject of common control by the Respondent. The above pattern evidences common conduct based on the registration and use of the Domain Names and that such conduct interferes with the Trade Mark. The Respondents had the opportunity but did not respond to the Complaint. As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to below as “the Respondent”) in a single proceeding.

## **6.2 Substantive Issues**

### **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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the entirety of the Trade Mark is reproduced within the Domain Names. Accordingly, these Domain Names are confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here which includes geographical names, abbreviations of geographical names, misspellings of geographical names, descriptive terms, misspelling of words and other random letters and words and a hyphen may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the Domain Names and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8.

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.

While 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 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 name. 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Names such as those enumerated in the Policy or otherwise.

Moreover, the nature of many of the Domain Names (e.g., <atacadaobrasilofertas.com> and <mercadoatacadao.com>) is inherently misleading as they effectively impersonate or suggest sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Given the use of the majority of the Domain Names (e.g., 26 out of 33) for websites impersonating the Complainant, it is clear that the Respondent sought to mislead Internet users as to the Domain Names’ association with the Complainant, including as to those Domain Names not resolving to any active content or to PPC links.

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.

In the present case, the Panel notes that the Respondent must have been aware of the Trade Mark when it registered the Domain Names given the reputation of the Trade Mark especially in Brazil which is where the Respondent is ostensibly based. It is therefore implausible that the Respondent was unaware of the Complainant when it registered the Domain Names.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent’s choice of the 33 Domain Names without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The Domain Names fall into the category stated above and the Panel finds that the registration is in bad faith.

The Domain Names are also being used in bad faith. The unauthorised use of the Complainant's copyright material including images from the Complainant's website, the Logo, and other text is clear indication of use for illegitimate activity.

The content of some of the Websites is calculated to give the impression they have been authorised by or connected to the Complainant when this is not the case. These Websites were set up to deliberately mislead Internet users that they are connected to, authorised by, or affiliated with the Complainant. The Respondent employs the fame of the Trade Mark to mislead Internet users into visiting the Websites instead of the Complainant's. From the above, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, by misleading Internet users into believing that the Websites and the products purportedly offered for sale and sold on them are those of or authorised or endorsed by the Complainant.

It is highly likely that Internet users when typing the Domain Names into their browser or finding them through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The Domain Names are likely to confuse Internet users trying to find the Complainant's official website. Such confusion will inevitably result due to the fact that all the Domain Names comprise the Trade Mark in its entirety or the dominant element of the Trade Mark.

The Panel therefore also concludes that the Domain Names were registered and are being used in bad faith under paragraph 4(b)(iv) of the Policy.

The fact that some of the Domain Names may have been inactive or resolve to parking pages with PPC links do not prevent a finding of bad faith given that the distinctiveness and reputation of the Trade Mark, the composition of the Domain Names, the lack of a response from the Respondent, and the fact that the Domain Names are all under common control of a single person or entity which are using the other Domain Names for nefarious purposes.

Based on the available record, the Panel finds the third element of the Policy has been established.

## 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 <atacadaobrasilofcc.com>, <atacadaobrasilofc.com>, <atacadaobrasilofertas.com>, <atacadaobrasiloficiall.com>, <atacadaobrasilpromo.com>, <atacadaobrofficial.com>, <atacadaocompre.online>, <atacadaofertasbra.com>, <atacadaofertasbrasil.com>, <atacadaofertasbr.com>, <atacadaofertasoficial.com>, <atacadaofficial.com>, <atacadaolinebr.com>, <atacadaolojabr.com>, <atacadaolojabr.site>, <atacadaolojabr.store>, <atacadaolojaofficial.com>, <atacadaolojaonline.com>, <atacadaolojas.online>, <atacadaomercadobr.com>, <atacadaomercado.com>, <atacadaomercadoof.com>, <atacadaomercado.site>, <atacadaooferta.com>, <atacadaoofficialbr.com>, <atacadaooficial.com>, <atacadaopromoc.com>, <atacadaositeofc.com>, <atacadaositeoficial.com>, <markt-atacadao.online>, <mercadoatacadao.com>, <mercadoatacadaof.com>, and <mercadoatacadaofficial.com> be transferred to the Complainant.

*/Karen Fong/*

**Karen Fong**

Sole Panelist

Date: December 9, 2024