

ADMINISTRATIVE PANEL DECISION

Carrefour SA and Atacadão - Distribuição, Comércio E Indústria LTDA. v. ruslan cafeta, Sandro Amorim, ELCIO ALVES, Raphael Sabatel, WebSolucoes LTDA, zed cabum, Drutt dd, DARLING SHOP CENTER NEGOCIOS DIGITAIS LTDA, and Cristian Lindo
Case No. D2024-5060

1. The Parties

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

The Respondents are ruslan cafeta, Brazil, Sandro Amorim, Brazil, ELCIO ALVES, Brazil, Raphael Sabatel, WebSolucoes LTDA, Brazil, zed cabum, Brazil, Drutt dd, DARLING SHOP CENTER NEGOCIOS DIGITAIS LTDA, Brazil, and Cristian Lindo, Brazil.

2. The Domain Names and Registrars

The disputed domain names <atacadaobrasnatal.site>, <atacadao-bras.online>, <atacadaobras.store>, <atacadaoexpress.store>, and <br-atacadaobrass.shop> are registered with Hostinger Operations, UAB. The disputed domain names <br-atacadaobras.com>, <lojaatacadao.com>, and <supermercadoatacadao.com> are registered with Gransy, s.r.o. d/b/a subreg.cz. (together the "Registrars").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 9, 2024. On December 9, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On December 9 and 10, 2024, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 11, 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 December 18, 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 December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on January 9, 2025.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on January 16, 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 Complainant, Carrefour SA, was founded in 1959 and operates in the field of retail in more than 30 countries worldwide. The Complainant, Atacadão Distribuição, Comércio E Indústria LTDA is a Brazilian wholesale and retail chain, established in 1960 and became a subsidiary of Carrefour SA in 2007.

The Complainant owns many trademark registrations for ATACADÃO and ATACADA O such as:

- Brazilian trademark registration No. 006785344 for ATACADÃO, registered on October 10, 1978;
- Brazilian trademark registration No. 006937497 for ATACADA O, registered on May 25, 1979.

The disputed domain names were registered on the following dates:

- The disputed domain name <atacadaobrasnatal.site> was registered on November 18, 2024.
- The disputed domain names <br-atacadaobras.com> and <atacadao-bras.online> were registered on November 19, 2024.
- The disputed domain names <lojaatacadao.com> and <br-atacadaobrass.shop> were registered on November 20, 2024.
- The disputed domain names <supermercadoatacadao.com> and <atacadaoexpress.store> were registered on November 22, 2024.
- The disputed domain name <atacadaodobras.store> was registered on November 23, 2024.

The disputed domain names resolve to the following pages:

- The disputed domain names <br-atacadaobras.com>, <lojaatacadao.com> and <supermercadoatacadao.com> resolve to an error page.
- The disputed domain name <atacadaodobras.store> resolves to a parking page.
- The disputed domain name <atacadao-bras.online> resolve to a blocked page.
- The disputed domain names <atacadaobrasnatal.site> and <br-atacadaobrass.shop> resolve to what seems to be the same webstore.
- The disputed domain name <atacadaoexpress.store> resolves to a webstore.

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 a trademark in which the Complainant has rights. The Complainant's trademark ATACADAO has been recognized by prior UDRP panels as a well-known trademark. The disputed domain names incorporate the Complainant's trademark in its entirety and it represents the dominant element. The addition of geographical or descriptive terms does not negate confusing similarity. Terms such as "loja", "supermercado", "bras", and "express" reinforce the connection to the Complainant as they describe its operations. The various Top-Level Domains are not relevant in the assessment of confusing similarity.

The Complainant contends that the Respondents have no rights or legitimate interests in the disputed domain names. The Complainant's trademark is internationally recognized and exclusively associated with the Complainant's business. The Respondents are not affiliated with the Complainant and the latter did not authorize the Respondents to use its trademark in the disputed domain names. There is no bona fide offering of goods or services. The disputed domain names <atacadaobrasnatal.site> and <br-atacadaobrass.shop> resolve to identical webstores, which misuse the Complainant's trademark. The disputed domain name <atacadaoexpress.store> resolves to another webstore which also misuses the Complainant's trademark. The remaining disputed domain names are a case of passive holding. There is no evidence that the Respondents are commonly known by any of the disputed domain names.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. The Respondents knew of the Complainant's trademark as the Complainant and its trademark are well-known, the use of the trademark by the Complainant significantly predates the registration of the disputed domain names and the descriptive and geographical terms used indicate knowledge of the Complainant. The Respondents have concealed their identity. There is a systematic and deliberate attempt to target the Complainant's trademark. Three of these disputed domain names are used in connection with webstores, which aim at misleading consumers. The remaining disputed domain names are not put in use and are therefore a case of passive holding. The Respondents' actions reflect an overarching strategy to exploit the Complainant's trademark for financial gain.

B. Respondents

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

6. Discussion and Findings

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 the disputed domain names were registered with two Registrars and within few days, i.e. November 18, 2024 to November 23, 2024. Furthermore, the disputed domain names <atacadaobrasnatal.site> and <br-atacadaobrass.shop> resolve the same webstore. The remaining ones represent passive use as they resolve to a parking page or an error page. All of the disputed domain names incorporate the Complainant's trademark in its entirety.

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 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 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 ATACADAO mark 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.

Although the addition of other terms here, “bras(s)”, “natal”, “br”, “do”, “express”, “loja”, and “supermercado”, 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.

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.

In the present case, the Panel notes that the Respondent was aware of the Complainant's products as the disputed domain names reproduce the Complainant's trademark in its entirety (in certain cases along with terms connected to the Complainant's business and geographical presence), and two of them <atacadaobrasnatal.site> and <br-atacadaobrass.shop> resolve to a website which displays the trademark of the Complainant. Another indication of knowledge is that the registration of the Complainant's trademark long predates the creation of the disputed domain names.

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 relation to the disputed domain names <br-atacadaobras.com>, <lojaatacado.com>, <supermercadoatacado.com>, <atacadaodobras.store>, and <atacado-bras.online>, 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain names, 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.

In relation to the disputed domain names <atacadaobrasnatal.site>, <br-atacadaobrass.shop>, and <atacadoexpress.store>, Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <atacadaobrasnatal.site>, <atacado-bras.online>, <atacadaodobras.store>, <atacadoexpress.store>, <br-atacadaobrass.shop>, <br-atacadaobras.com>, <lojaatacado.com>, and <supermercadoatacado.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: January 24, 2025