

ADMINISTRATIVE PANEL DECISION

Carrefour SA, Atacadão S.A. v. Digital Super
Case No. D2025-1497

1. The Parties

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

The Respondent is Digital Super, Brazil.

2. The Domain Name and Registrar

The disputed domain name <atacadoexpressloja.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2025. On April 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 15, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 18, 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 April 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 22, 2025.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on May 27, 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 Complainants are Carrefour SA (the “Complainant 1”) and Atacadão S.A. (the “Complainant 2”). The Complainant 1 is a French company mainly active in the retail sector. It was founded in 1959 and has more than 12,000 retail locations in more than 30 countries worldwide. The Complainant 2 is a Brazilian chain of wholesale and retail stores established in 1960 and acquired by the Complainant 1 in 2007. The Complainant 1 and the Complainant 2 will hereinafter collectively be referred to as the “Complainant”.

The Complainant 1 is the owner of registered trademarks in ATACADAO, amongst which:

- European Union Trademark No. 012020194 for ATACADAO, registered on May 24, 2015, in International Class 35.

The Complainant 2 is also the owner of registered trademarks in ATACADÃO, amongst which:

- Brazilian Trademark No. 006785360 for ATACADÃO, registered on October 10, 1978, in National Classes 2910, 2930, and 2940.

In addition, the Complainant 2 also owns domain names containing the ATACADAO trademark, amongst which <atacado.com.br>.

The disputed domain name was registered on March 21, 2025, well after the Complainant secured rights in the mark ATACADAO/ATACADÃO. According to an undated screen capture made by the Complainant, the disputed domain name resolves to a website containing an online shop bearing the name “Atacadão Express” offering various types of discounted goods. The shop targets Brazilian customers as confirmed by the shop’s description, the language of the shop (Portuguese) and the currency of the products’ prices, which are all listed in Brazilian Real (R\$).

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 name.

With respect to the first element, the Complainant contends that it has rights in the mark ATACADAO and that the disputed domain name is confusingly similar to this mark. According to the Complainant, the disputed domain name wholly incorporates the well-known trademark ATACADAO together with the generic terms “express” and “loja”, the latter translating to “store” in Portuguese. The Complainant emphasizes that both terms are closely connected to the Complainant’s activities and that Internet users of average attention will likely believe that the disputed domain name is affiliated with or endorsed by the Complainant. Finally, the Complainant points out that neither the use of the lower-case letter format nor the addition of the Top-Level Domain “.com” is significant in determining whether the disputed domain name is confusingly similar to the trademarks of the Complainant.

Regarding the second element, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name. First, the Complainant claims to have performed searches and found no ATACADAO (or term similar thereto) trademark owned by the Respondent. Second, the Complainant

submits that they have not authorized the Respondent to use its ATACADAO/ATACADÃO trademark or any similar terms in the disputed domain name. Third, the Complainant puts forth that the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a bona fide offering of goods or services. In fact, the Complainant notes, the disputed domain name resolves to a website offering various products for sale and this use is an attempt by the Respondent to disrupt the Complainant's online activities and to capitalize on the goodwill associated with the Complainant's well-known ATACADAO/ATACADÃO trademark to gain an unfair advantage and mislead Internet users searching for the Complainant's products and services. In addition, the Complainant points out that there are several indicators that raise significant doubts as to whether the website at the disputed domain name is a legitimate e-commerce operation. As demonstrated by evidence submitted by the Complainant: (i) the domain name that is linked to the support email address mentioned on the website that the disputed domain name resolves to is suspended and lacks mail exchange ("MX") records, (ii) the number of sales recorded under different products is the same, (iii) the web page to track packages returns a "page not found" error, and (iv) there are customer complaints relating to the vendor with the same email address as the Respondent that online purchases were not fulfilled and complaints sent by these customers by email to the email address of the Respondent remained unanswered. Finally, the Complainant notes that its adoption and extensive use of the ATACADAO/ATACADÃO trademarks far predates the registration of the disputed domain name and therefore the burden is on the Respondent to establish the Respondent's rights or legitimate interests relating to the disputed domain name.

As to bad faith registration, the Complainant claims that there can be no doubt that the Respondent has registered the disputed domain name with the Complainant's name and trademarks in mind. The Respondent is a resident of Brazil, a country where the Complainant 2 is headquartered and undoubtedly famous. Furthermore, as the Complainant points out, the Complainant's name and trademarks appear within the disputed domain name in their entirety, deliberately misleading Internet users and falsely suggesting an affiliation with the Complainant. In that regard, the Complainant also notes that UDRP Panels have consistently found that the mere registration of a domain name that is confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Finally, the Complainant notes that its trademark registrations significantly predate the registration date of the disputed domain name and that a quick trademark search would have revealed them.

With respect to bad faith use, the Complainant contends that by simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its name and trademarks in the corresponding disputed domain name. In addition, the Complainant points out that the current use of the disputed domain name in connection with an online store is further evidence of bad faith on the part of the Respondent. Indeed, the Complainant emphasizes, the Respondent is actively trying to benefit from the renown and fame of the Complainant and its brands to make commercial gain, by creating confusion in the mind of an Internet user of average attention. Finally, the Complainant claims that, considering the long-lasting international relationship of the Complainant and its trademarks, the Complainant cannot think of any future good faith use of the disputed domain name by the Respondent.

B. Respondent

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

6. Discussion and Findings

A. Preliminary Issue: Consolidation of Multiple Complainants

The Panel notes that the Complaint was filed by two Complainants. The Panel is therefore required to decide whether it will permit this Complaint filed by multiple Complainants (paragraph 10(e) of the Rules).

The Panel finds that the Complainant 1 and the Complaint 2 have a common grievance against the Respondent since it appears from the evidence on record that the Complainant 1 owns the Complainant 2.

Moreover, the evidence indicates that both the Complainant 1 and the Complainant 2 own trademarks in the mark ATACADAO/ATACADÃO, which this Complaint relies on. Considering these facts and the Respondent's failure to submit any response to the Complaint, the Panel believes that it would be equitable and procedurally efficient to permit the consolidation.

Accordingly, the Panel permits the Complaint filed by the Complainant 1 and the Complainant 2.

B. 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 the ATACADAO trademark 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.

Although the addition of other terms, here "express" and "loja" (Portuguese for "store"), 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 name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Finally, as for the applicable generic Top-Level Domain ("gTLD"), i.e., the suffix ".com", the Panel holds that this can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

C. 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 name. 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 name such as those enumerated in the Policy or otherwise.

The Panel finds that the Respondent does not use, nor has the Respondent made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services and the Respondent has not made a legitimate noncommercial or fair use of the disputed domain name. On the contrary, it appears from the case file that the disputed domain name is being used for an online shop

bearing the name “Atacadão Express” offering various types of discounted goods. The use of the ATACADAO trademark in the disputed domain name as well as on the website itself has not been authorized by the Complainant. The evidence also shows that the Respondent failed to accurately and prominently disclose on that website its lack of relationship with the Complainant. Indeed, the website creates the impression of being linked to the Complainant by prominently bearing the ATACADÃO trademark as part of its name “Atacadão Express” and stating that the online shop provides an express online shopping experience for a variety of discounted goods. In addition, as demonstrated by evidence submitted by the Complainant, there are other indications that the operation of the online shop is illegitimate, for example, the stock quantity of different goods is the same and some links on the website do not work. This kind of use of the disputed domain name does not represent a bona fide offering and does not support rights or legitimate interests in the disputed domain name. Moreover, Panels have held that the use of a domain name for illegitimate activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In addition, the Complainant confirms that the Respondent is not affiliated with the Complainant in any way nor has the Complainant licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademarks. The Panel has taken note of the Complainant's confirmation in this regard and has not seen any evidence that would suggest the contrary. In the absence of any license or permission from the Complainant to use its trademarks, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); and *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Panel finds the second element of the Policy has been established.

D. 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 intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's ATACADAO/ATACADÃO mark (paragraph 4(b)(iv) of the Policy). As the Panel has found above under the first element, the disputed domain name is confusingly similar to the ATACADAO mark. In addition, as discussed under the second element above in further detail, the Respondent uses the disputed domain name for a website on which it operates an online shop bearing the name “Atacadão Express” offering various types of discounted goods. The online shop prominently features the ATACADÃO trademark without the Complainant's permission. In addition, the online shop does not contain any accurate and prominent disclaimer clarifying lack of relationship between the Respondent and the Complainant. These circumstances, in combination with the Respondent's clear absence of rights or legitimate interests in the disputed domain name, are strong indicators of bad faith.

Moreover, 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. The following other circumstances further support a finding of bad faith.

The Panel believes that the Respondent knew or, at least, should have known at the time of registration that the disputed domain name included the Complainant's ATACADAO trademark. As demonstrated by the Complainant, its ATACADAO/ATACADÃO trademarks were registered many years before the registration of the disputed domain name in several countries and used widely, in particular in the country of establishment of the Respondent, Brazil. In addition, the disputed domain name incorporates the ATACADAO mark in its entirety and includes the descriptive terms “express” and “loja” (Portuguese for “store”). These descriptive terms do not dispel the confusing similarity but in fact reinforce it since they refer to the retail activities that

the Complainant conducts under the ATACADAO trademark and therefore imply that the online store to which the disputed domain name links belongs to the Complainant. Moreover, as detailed under the second element above, the online shop bears the name “Atacadão Express” and prominently features the ATACADÃO trademark without the Complainant’s permission. All of these facts indicate that the Respondent had the Complainant’s trademarks in mind when registering the disputed domain name. The Respondent has knowledge of the Complainant and the ATACADAO/ATACADÃO trademarks and therefore its registration in bad faith of the disputed domain name may accordingly also be inferred from these circumstances. [WIPO Overview 3.0](#), section 3.2.2.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name 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 name <atacadoexpressloja.com> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: June 10, 2025