

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA, Atacadão - Distribuição, Comércio E Indústria LTDA. v. beatriz alves

Case No. D2025-2646

### **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 beatriz alves, Brazil.

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

The disputed domain name <atacadaocard.store> 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 July 7, 2025. On July 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 July 10, 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 July 15, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 5, 2025.

The Center appointed Paula Bezerra de Menezes as the sole panelist in this matter on August 7, 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 (“Carrefour”) and Atacadão - Distribuição, Comércio E Indústria LTDA. (“Atacadão”).

Carrefour is a public limited company registered in the trade and companies register of Evry (France). Founded in 1959, the Complainant is a pioneer of the concept of hypermarkets back in 1963.

Atacadão is a Brazilian wholesale and retail chain, established in 1960. In 2007, it became a subsidiary of Carrefour SA. This acquisition integrated Atacadão into Carrefour’s worldwide operations. Specializing in bulk purchasing for small businesses and consumers, Atacadão offers a wide range of competitively priced products. Its presence is supported by registered trademarks in Brazil, the European Union, and beyond.

The Complainants own the following trademark registrations bearing the terms “ATACADÃO” and “ATACADAO”<sup>1</sup>:

- Brazilian trademark ATACADÃO (word), No. 006785344, in former local class 31:10, to cover dairy products in general, registered on October 10, 1978, in force until October 10, 2028, previously in the name of Atacadão – Distribuição, Comércio e Indústria Ltda, and currently in the name of Atacadão S.A., after a name change recorded by the Brazilian Trademark Office (BTO) on March 5, 2024<sup>2</sup>, which was assessed by the Panel by running searches at the relevant BTO’s database;
- Brazilian trademark ATACADAO (word), No. 006937497, in former local class 35:10/20/30 to cover drinks, syrups and concentrated juices; substances for making drinks in general; ice and freezing substances; registered on May 25, 1979, in force until May 25, 2029, previously in the name of Atacadão – Distribuição, Comércio e Indústria Ltda. and currently in the name of Atacadão S.A., after a name change recorded by the Brazilian Trademark Office (BTO) on March 5, 2024, which was assessed by the Panel by running searches at the relevant BTO’s database;
- French trademark ATACADAO (figurative), No. 4981135, in class 35 to cover inter alia business management; business administration; office work; distribution of advertising material (leaflets, prospectuses, printed matter, samples); assistance in the operation or management of commercial or industrial businesses; assistance in the operation or management of shopping centers; online advertising on a computer network; rental of advertising time on any means of communication; publication of advertising texts; organization and management of commercial customer loyalty operations; presentation of goods on any means of communication for retail sale, and retail services in supermarkets or hypermarkets, registered on November 10, 2023 in force until July 28, 2033, in the name of Carrefour; and
- OAPI trademark ATACADAO (undefined), No. OA/3/2012/002570, in class 35, to cover inter alia a variety of retail stores, housing infrastructure, commercial, leisure, retail; commercial information and advice to consumers, decoration of shop windows, product demonstrations, updating of commercial literature, auctions, market research, commercial administration of licences of goods and services of others, presentation of products on any means of communication for retail sale, market research; commercial information services, commercial information and advice to consumers, electronic commercial information

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<sup>1</sup> The specification of goods and services was freely translated into English.

<sup>2</sup> The Panel considers that the name discrepancy of the Complainant and the Titleholder does not affect the rights being enforced, because the Complainant’s name was simply not updated in the Complaint.

services, registered on February 28, 2013 in force until September 11, 2032, in the name of Carrefour Société anonyme.

The disputed domain name was registered on June 21, 2025.

The Respondent was identified as beatriz alves, supposedly located in Brazil.

At the time of the filing of the Complaint, the disputed domain name resolved to a page displaying “atacadaocard.store Happy to see your domain with Hostinger! Your domain is active and is using Hostinger” (Annex 6 of the Complaint). There has been no content change until the date of the present decision.

## **5. Parties’ Contentions**

### **A. Complainants**

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 Atacadão has 3.6 million followers in Facebook Brazil and 1 million followers in LinkedIn Global (Annex 5, 1-2 of the Complaint), which demonstrate the extensive reach of their trademark, strengthening the Complainants’ position in these proceedings.

The Complainants assert that the mark ATACADÃO has been acknowledged as well-known in a series of UDRP decisions and that the disputed domain name is not used, as it resolves to an error webpage displaying the message “atacadaocard.store Happy to see your domain with Hostinger! Your domain is active and is using Hostinger”.

Specifically, the Complainants submit that the disputed domain name <atacadaocard.store> is confusingly similar to the Complainants’ trademarks ATACADÃO and ATACADAO which are recognized in connection with retail and wholesale distribution services. Moreover, the disputed domain name, which reproduces the Complainants’ trademark ATACADAO in its entirety, was registered on June 21, 2025, post-dating the Complainants’ trademarks.

The Complainants further argue that the addition of the term “card” to the Complainants’ trademark does not avoid a finding of confusing similarity because the word “card” is descriptive and the overall impression created by the disputed domain name is dominated by the Complainants’ trademark. The addition of the term “card” may even increase the likelihood of confusion by suggesting a false affiliation with one of the Complainants’ commercial services, particularly given that large retail brands often offer branded payment cards or customer loyalty programs. In this context, Internet users encountering the disputed domain name may mistakenly believe that it refers to a legitimate service or product offered by the Complainants, thereby reinforcing the risk of confusion.

The generic Top-Level Domain (“gTLD”) “.store” is irrelevant in assessing confusing similarity under the first element of the UDRP.

The Complainants contend that the Respondent has no rights or legitimate interests in respect of the disputed domain name because it is not affiliated with the Complainants in any way and has not been authorized, licensed, or otherwise permitted to use the Complainants’ trademarks ATACADÃO or ATACADAO, nor to register or use domain names incorporating these marks. There is no evidence that the Respondent has ever had any relationship with the Complainants that would give rise to any rights or legitimate interests in the disputed domain name. They also assert that:

i) there is no indication that the Respondent is commonly known by the name “Atacadao Card” or any similar name. The Whois information does not reflect such a name, and there is no evidence on the record

suggesting that the Respondent has acquired trademark rights or any other legitimate interest in a name corresponding to the disputed domain name;

ii) the disputed domain name is not being used in connection with a bona fide offering of goods or services. The disputed domain name resolves to a default placeholder page provided by the hosting service Hostinger, which merely states that the disputed domain name is active and invites the registrant to build a website. The passive holding of a domain name does not constitute a legitimate use under paragraph 4(c)(i) of the Policy and in the absence of any demonstrable preparations to use the domain name for a legitimate business or personal purpose, the Respondent cannot claim a bona fide offering of goods or services;

iii) there is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain or to misleadingly divert consumers. On the contrary, the incorporation of the Complainants' distinctive trademark in its entirety, with the generic term "card", suggests an intent to create a misleading association with the Complainants' trademark and services, particularly given that major retail brands often provide branded payment cards. Such use cannot be characterized as legitimate under paragraph 4(c)(iii) of the Policy. Taken together, the absence of any affiliation with the Complainants, the lack of evidence of any *bona fide* offering of goods or services, and the passive use of the disputed domain name all point to the conclusion that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of the Policy;

iv) the disputed domain name was registered and is being used in bad faith, because it is inconceivable that the Respondent was unaware of the Complainants' well-known trademarks and rights when registering the disputed domain name. The Respondent's deliberate reproduction of the Complainants' trademark in its entirety is a strong indication that the Respondent had actual knowledge of the Complainants' brand and intentionally targeted it;

v) the Respondent has taken active steps to conceal its identity by using a privacy protection service in the Whois record. While such services can be used for legitimate purposes, concealment of identity may support a finding of bad faith where there is no other legitimate explanation, particularly where the domain name incorporates a third party's well-known trademark. In this case, the concealment of the Respondent's identity, combined with the absence of any legitimate use and the targeting of the Complainants' mark, supports an inference of bad faith registration;

vi) although the disputed domain name does not currently resolve to an active website, the passive holding does not preclude a finding of bad faith use. Even if the disputed domain name is not currently being used to host a fraudulent website, the composition of the disputed domain name suggests a high risk of future abuse, including phishing, data harvesting, or consumer deception. The fact that the disputed domain name is configured to Hostinger nameservers and displays a default hosting page demonstrates that the Respondent has taken the technical steps necessary to activate the disputed domain name. This shows that the Respondent is not merely sitting on an unconfigured name, but has at least partially set up the infrastructure for possible future use. In the context of a domain name that incorporates a well-known trademark, such preparatory steps further support a finding of bad faith use, particularly where the Respondent has failed to articulate any legitimate purpose;

vii) the totality of the circumstances, the reputation of the Complainants' trademark, the misleading nature of the domain name, the passive holding, and the concealment of identity, support the conclusion that the Respondent is using the disputed domain name in bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, for the transfer of the disputed domain name the Complainant must establish that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has 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 in bad faith.

The Rules determine that if the Respondent does not comply with the time periods established nor any provision or requirements under paragraphs 14 (a) and 14 (b) of the Rules, the Panel shall proceed to a decision on the complaint and draw inferences as it considers appropriate.

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

The Panel has reviewed the case and found the following:

### 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 Complainants' 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 trademark or service mark for the purposes of the Policy.

The entirety of the mark is reproduced within the disputed domain name. The Panel finds the Complainants' mark is recognizable 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.

The Panel has disregarded the gTLD, in this case "store". See section 1.11 of the [WIPO Overview 3.0](#), which states that the applicable gTLD is typically disregarded for this purpose. See also *Bank Nagelmackers N.V. v. WhoisGuard, Inc / Paulo Giardini*, WIPO Case No. [D2016-0819](#).

Although the addition of other terms, here "card", may bear on the 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 Respondent defaulted and has failed to prove (i) before any notice of the dispute, its use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or (ii) being commonly known by the disputed domain name, even if it had acquired no trademark or service mark rights; or (iii) a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page, and, by analogy, a contentless page inviting the registrant to create its website) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Having reviewed the available record, the Panel considered the following factors to apply the passive holding doctrine and additional bad faith consideration factors:

(i) the evidence mentioned by the Complainants showed that previous panels found the Complainants' mark was well-known. See *Carrefour SA and Atacadão S.A. v. atacado varejo*, WIPO Case No. [D2023-3011](#), *Carrefour SA, Atacadão S.A. v. Bento Ferreira, Amelio Herl*, WIPO Case No. [D2024-3706](#);

(ii) the reproduction of the Complainants' well-reputed mark in its entirety with an additional term that is common and descriptive in the Complainants' activity field;

(i) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use;

(ii) the Respondent provided the Registrar with contact details that were clearly inaccurate. The city provided (Recife) is in Pernambuco State, and the Respondent declared it was in Acre. The Respondent's zip code in the case file referred to a different street address in another city (Goiânia), in another Brazilian State, namely Goiás. Moreover, its fax number failed to work, despite several attempts from the Center. The Panel finds that the false contact details are likely in breach of the relevant Registration Agreement and it is difficult not to infer that the Respondent was trying to conceal its identity.

Given the above, the Panel 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, as already decided in previous cases brought before the Center.

Thus, 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 <atacadaocard.store> be transferred to one of the Complainants, according to their choice.

*/Paula Bezerra de Menezes/*

**Paula Bezerra de Menezes**

Sole Panelist

Date: August 21, 2025