

## **ADMINISTRATIVE PANEL DECISION**

Carrefour SA, Atacadão - Distribuição, Comércio E Indústria LTDA. v. ana maria vieira lopes

Case No. D2025-4851

### **1. The Parties**

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

The Respondent is ana maria vieira lopes, Brazil.

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

The disputed domain name <mercadaoatacadao.com> 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 November 21, 2025. On November 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 24, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 24, 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 November 24, 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 November 27, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 18, 2025.

The Center appointed Mihaela Maravela as the sole panelist in this matter on December 24, 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**

According to information in the Complaint, the Complainant Carrefour SA was founded in 1959 and operates more than twelve thousand stores in more than 30 countries. It has more than 384,000 employees worldwide, 1.3 million unique visitors to its webstores daily, and a turnover around 80 billion euros every year. The Complainant Atacadão - Distribuição, Comércio E Indústria LTDA is a leading Brazilian wholesale and retail chain, established in 1960 and recognized for its extensive network of over 300 stores and distribution centers across all Brazilian states. In 2007, it became a subsidiary of Carrefour SA.

The Complainants are the owners of several ATACADAQ and ATACADÃO trademarks registered including:

- European Union trademark ATACADAQ No. 012020194, registered on May 24, 2015, and designating services in international class 35;
- Brazilian trademark ATACADÃO No. 006785344, registered on October 10, 1978, duly renewed and designating goods in class 31; and
- Brazilian trademark ATACADAQ No. 006937497, registered on May 25, 1979, duly renewed and designating services in class 35;

There is no information known about the Respondent apart from the details as they appear on the Whois record.

The disputed domain name was registered on November 15, 2025, and does not resolve to an active website.

#### **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.

Notably, the Complainant contends that the disputed domain name consists of the term “mercadao”, followed by the Complainant’s ATACADAQ mark, and the “.com” generic Top-Level-Domain (“gTLD”). The element “mercadao” is a common Portuguese word meaning “big market” or “marketplace” and does nothing to distinguish the disputed domain name from the Complainant’s mark.

As regards the second element, the Complainant argues that there is no evidence that the Respondent has any commercial name, trade name, trademark, or other identifier corresponding to the disputed domain name. The Respondent has no connection with the Complainant, and the Complainant has not authorised the Respondent to register or use the disputed domain name. Because the disputed domain name resolves to no active webpage, there is no evidence of any noncommercial or fair use. Passive holding does not amount to legitimate noncommercial activity under the Policy. Furthermore, the nature of the disputed domain name, combining a descriptive retail term with the Complainant’s mark, is inconsistent with any conceivable fair use.

With respect to the third element, the Complainant submits inter alia that the Respondent registered a domain name that incorporates the Complainant's distinctive ATACADAO / ATACADÃO trademarks in their entirety. The Complainant's ATACADAO mark is longstanding, widely used, and well known in the retail and wholesale sectors, therefore the Respondent could not reasonably have been unaware of the Complainant's trademark rights when selecting a domain name consisting of "mercadao" combined with ATACADAO, a configuration that has no plausible meaning unrelated to the Complainant. As regards the use, the Respondent has provided no explanation for its choice of the disputed domain name, has concealed its identity behind a privacy service, and has not made any demonstrable preparations for a bona fide use. The combination of the Complainant's trademark with the Portuguese term "mercadao", which directly relates to retail and market activities, further indicates that any future use would inevitably rely on the Complainant's reputation. Panels routinely find that when a domain name is inherently misleading and cannot reasonably be used for a legitimate purpose, passive holding supports a finding of bad faith use.

## **B. Respondent**

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

## **6. Discussion and Findings**

No response has been received from the Respondent in this case. The Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the reasonable factual allegations in the Complaint as true. [WIPO Overview 3.0](#), section 4.3.

Even if the Respondent has not replied to the Complainant's contentions, the Complainant still bears the burden of proving that all requirements are fulfilled. To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 Panel has taken note of the [WIPO Overview 3.0](#), and, where appropriate, will decide consistently with the consensus views stated therein.

### **A. Identical or Confusingly Similar**

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademark ATACADAO for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7. It is well established that the generic Top-Level Domain ("gTLD") may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant's

trademarks as they are viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

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, “mercadao”) may bear on 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 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.

There is no evidence showing that the Respondent holds any rights for ATACADAO trademarks. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the trademark ATACADAO. The disputed domain name does not resolve to an active page, which does not confer rights or legitimate interests on the Respondent, given the substantial reputation and goodwill of the Complainant’s trademark or capacity to otherwise mislead Internet users. Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

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.

According to the unrebutted assertions of the Complainant, its ATACADAO trademark was widely used in commerce well before the registration of the disputed domain name. The Complainant has trademark rights

also in Brazil, where the Respondent is apparently located. The disputed domain name is confusingly similar to the Complainant's trademark which is a distinctive coined term trademark that enjoys reputation including in Brazil (see e.g. *Carrefour SA, Atacadão S.A. v. Bento Ferreira, Amelio Herl*, WIPO Case No. [D2024-3706](#)). The composition of the disputed domain name, that includes a term linked to the Complainant's sector of activity, is a further element. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name.

As regards the use, 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. Having reviewed the available 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. Although 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 available record, the Panel notes the distinctiveness and renown of the Complainant's trademark, the misleading composition of the disputed domain name, and the wrong contact details provided at registration (the courier service was not able to deliver the Center's Written Notice to the Respondent), and 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.

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 <[mercadaoatacadao.com](http://mercadaoatacadao.com)> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: January 2, 2026