

ADMINISTRATIVE PANEL DECISION

Banco Bradesco S/A v. Carlos Amaral
Case No. DIO2023-0046

1. The Parties

The Complainant is Banco Bradesco S/A, Brazil, represented Pinheiro, Nunes, Arnaud E Scatamburlo, Brazil.

The Respondent is Carlos Amaral, Canada, self-represented.

2. The Domain Name and Registrar

The disputed domain name <bradesco.io> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 19, 2023, 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 23, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2023. The Response sent informal communication emails on November 27, 28, 29, 30, and December 1, 2023. The Complainant sent informal responses to these communication emails.

The Center appointed Adam Samuel as the sole panelist in this matter on December 21, 2023. 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 is a Brazilian bank. It owns, among others, a Brazilian trademark registered on June 10, 1980, numbered 007.170.424, and a United States of America trademark, serial number 75276497 registered on May 4, 1999, both for the name for BRADESCO.

The Complainant registered the domain name <bradesco.com.br> in, 1995 through which it promotes its services.

The disputed domain name was registered on March 4, 2022. It currently resolves to a parking page which indicates that the disputed domain name is “available on GoDaddy Auctions”. An Internet user clicking through a button on that parking page marked “Get This Domain” reaches another page indicating that the disputed domain name is for sale for USD 10,000. The page also includes pay-per-click links, related to banking services.

5. Parties’ Contentions

A. Complainant

The disputed domain name consists of the Complainant’s trademark and the Top-Level Domain (“TLD”) “.io”. The Respondent has not registered a trademark containing the expression “Bradesco”. The Complainant has not entered into any agreement, authorization or license with the Respondent with respect to the expression “Bradesco”. That name does not appear in the Respondent’s name or other identification.

On November 1, 2023, the website to which the disputed domain name resolved contained links offering services, such as insurance that the Complainant also offers to its clients. The Complainant’s trademark appeared on one of the pages of the website to which the disputed domain name resolves. There was and is no reference there to the Respondent’s activities and services. The only plausible explanation for the Respondent’s selection of the disputed domain name is to exploit the reputation and goodwill of the Complainant and its name and marks all in an unauthorized fashion.

On November 29, 2023, there appeared on the website to which the disputed domain name resolves an offer to sell the disputed domain name.

The Respondent’s activities are criminal.

B. Respondent

The Respondent has not created a website associated with the disputed domain name. The disputed domain name is not linked to any website. The disputed domain name was obtained legally as it was available for registration. The Respondent has not used the disputed domain name to infringe any trademark or engage in any illegal activities. The Complainant’s submissions to the contrary are inaccurate. These are based on pdf versions of the website to which the disputed domain name resolves, and which are susceptible to modification by the Complainant. Any offer to sell the disputed domain name may be a misrepresentation or an unrelated matter.

6. Discussion and Findings

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 or is being used in bad faith.

There are two preliminary issues with which the Panel has to deal.

First, the Panel's sole function is to determine whether the Complainant is able to prove the elements listed in paragraph 4(a) of the policy. The Complaint contains an allegation that the Respondent has committed a crime. The Response denies that the Respondent has acted illegally. The Panel's task is not to determine these questions.

The second issue facing the Panel concerns the admissibility of the Complainant's reply to the Response, dated November 29, 2023, and the Respondent's reply to this of the same date and the following day and the Complainant's response to this reply dated December 1, 2023. The Panel considers that none of this material affects the outcome of this Complaint and so does not have to decide on its admissibility.

A. Identical or Confusingly Similar

The disputed domain name consists of the Complainant's trademark BRADESCO exactly and the TLD ".io".

The TLD is irrelevant here as it is a standard registration requirement. See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Respondent has not presented any arguments under this heading. The fact that it was physically possible to register the disputed domain name when the Respondent registered it is irrelevant here.

For all these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent is not called "Bradesco" or anything similar. There is no evidence that the Complainant has ever authorised the Respondent to use its trademarks. The Respondent does not appear to have used the disputed domain name for any legitimate purpose. In fact, the Respondent has argued that he has not used the disputed domain name at all.

For these reasons, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

C. Registered or Used in Bad Faith

In the correspondence between the parties and the Center, there has been vigorous argument about the use, if any, to which the disputed domain name has been put. The Panel does not need to resolve that dispute in order to determine whether the disputed domain name was registered and is being used in bad faith and declines to do so.

The disputed domain name consists of the Complainant's trademark and the irrelevant-for-this-purpose TLD ".io". The trademark is the predominant element of the Complainant's name. The Respondent has never explained why he registered the disputed domain name or refuted the Complainant's argument that he did so in order to benefit from the Complainant's trademark or name or disrupt the Complainant's business in some way.

Even if one assumes in the Respondent's favour that he never put up the website to which the disputed domain name currently resolves, this appears to be a case of passive holding. Section 3.3 of the [WIPO Overview 3.0](#) reads:

"While 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."

The Complainant's mark appears to have no meaning apart from being the predominant element of the Complainant's name. The Respondent has not even asserted that it was going to use the disputed domain name in a good faith manner. The Respondent has used a privacy service. Despite providing a response to the Complaint and arguing that the evidence presented with it was false, the Respondent has not given any indication of why it registered the disputed domain name and the uses to which it intends or intended to put the disputed domain name.

In the circumstances, the Panel concludes that the Respondent registered the disputed domain name knowing of the Complainant's name and trademark rights. The Respondent did so either to disrupt the Complainant's business or for the purpose of selling the disputed domain name to the Complainant for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name. Under paragraph 4(b)(i) and (iii), this constitutes evidence of registration and use in bad faith.

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, <bradesco.io>, be transferred to the Complainant.

/Adam Samuel/

Adam Samuel

Sole Panelist

Date: January 4, 2023