

ADMINISTRATIVE PANEL DECISION

ALSTOM v. donny star

Case No. D2022-0169

1. The Parties

The Complainant is ALSTOM, France, represented by Lynde & Associates, France.

The Respondent is donny star, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <alstornrgroup.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 January 19, 2022. On January 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 20, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 January 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 11, 2022.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on February 15, 2022. 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, established in 1928, is a global leader in transport infrastructures, employing some 34000 professionals in more than 60 countries. In 2020, the Complainant's turnover reached 8.8 EUR billion.

The Complainant is the proprietor of the trademark ALSTOM, registered in various countries, such as in the European Union under no. 948729 as of August 8, 2001.

The disputed domain name was registered on November 3, 2021. The disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's trademark ALSTOM. The disputed domain name reproduces the Complainant's trademark in a misspelled way, in which the letter "r" is directly attached to the letter "n". This is visually barely noticeable since the combination "rn" is almost identical in shape with the letter "m". The Complainant's trademark is directly recognizable in the disputed domain name. The word "group" in the disputed domain name is purely descriptive.

The Respondent has not been authorized by the Complainant to use the disputed domain name. The disputed domain name was initially used for phishing operations and the Respondent does not have legitimate interests in the disputed domain name.

The Complainant's trademark is well-known, and the Respondent must have been aware of the same when registering the disputed domain name. The disputed domain name reproduces the Complainant's trademark in a misspelled way, which amounts to typo-squatting.

The disputed domain name has been used fraudulently. It initially resolved to a website containing texts such as "Le site que vous allez ouvrir est trompeur (the website you are going to open is deceptive)". The Respondent's email at the Whois records does not exist and the Respondent's name is associated with 18 domain names, all registered in 2020 and in 2021.

B. Respondent

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

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

Furthermore, “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements”. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant’s trademark, which is clearly recognizable in the disputed domain name. The modification of the trademark ALSTOM is an insignificant modification as the trademark ALSTOM is very similar to “alstorn”. There is also an obvious visual similarity between the trademark ALSTOM and “alstorn” as the letters “rn” resemble closely the letter “m”. The difference between the Complainant’s trademark and “alstorn” constitutes therefore a mere typosquatting on the Respondent’s behalf. The word “group” in the disputed domain name does not prevent the finding of confusing similarity between the Complainant’s trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar with the Complainant’s trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests to the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent’s rights or legitimate interests in a disputed domain name the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel’s findings above, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily

for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location."

The Panel agrees with the Complainant and previous panels that the Complainant's trademark is a well-known trademark within the Complainant's industry. It is therefore inconceivable that the Respondent would not have been aware of the Complainant's trademark when registering the disputed domain name.

The disputed domain name does not resolve to an active website. Accordingly, the disputed domain name is not in active use, see *e.g.*, *Accenture Global Services Limited v. Domain eRegistration*, WIPO Case No. [D2018-1994](#).

This, however, does not prevent the finding of bad faith under the doctrine of passive holding. See section 3.3 of [WIPO Overview 3.0](#). Considering that the Panel has found that the Complainant's trademark is well known, the Respondent has not responded to the Complaint or to the Complainant's pre-complaint emails, there are no obvious good faith or legitimate uses to which the disputed domain name may be put, the Panel considers, on balance, that the disputed domain name has been registered and is being used in bad faith.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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, <alstorngroup.com>, be transferred to the Complainant.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: February 28, 2022