

ADMINISTRATIVE PANEL DECISION

ALSTOM v. GST AUTO

Case No. D2022-3895

1. The Parties

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

The Respondent is GST AUTO, United States of America (“US”).

2. The Domain Name and Registrar

The disputed domain name <alstomogroup.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 October 18, 2022. On October 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 19, 2022, 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 October 20, 2022.

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 October 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 24, 2022.

The Center appointed Adam Samuel as the sole panelist in this matter on December 7, 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 is a manufacturer of trains and other transport infrastructure. The Complainant owns a number of trademarks for the mark ALSTOM, including US trademark registration number 85250501, registered on July 22, 2014. The Complainant registered the domain name <alstom.com> on January 20, 1998 and <alstomgroup.com> on November 14, 2000, through which it promotes its products.

The disputed domain name was registered on September 28, 2022. The disputed domain name currently does not resolve to a website although in the past, it resolved to the Complainant's website before changing to an inaccessible webpage after around thirty seconds.

5. Parties' Contentions

A. Complainant

The Complainant's security team intercepted 18 emails coming from email addresses associated with the disputed domain name on October 11, 2022. On the same date, the Complainant's lawyer wrote a cease and desist letter to the Respondent using the email address provided in the WHOIS extract for the disputed domain name. No response has been received.

The disputed domain name reproduces the Complainant's ALSTOM trademark and associates it with the element "ogroup", a clear misspelling of the term "group" and the suffix ".com" which only indicates that the disputed domain name is registered in the ".com" generic Top-Level Domain ("gTLD"). The Respondent's decision to send emails imitating the Complainant's email address format "[...]@alstomgroup.com" demonstrates that the Respondent considers there to be a risk of confusion. The denomination "ogroup" will be perceived by Internet users as referring to the Complainant's group of companies.

The Respondent is not affiliated in any way to the Complainant. The Complainant has not authorized, licensed or permitted the Respondent to register or use a domain name incorporating their trademarks. The Respondent has not applied for or obtained any trademark registrations related to the name ALSTOM and is not commonly known by that name.

The Complainant's security team intercepted 18 emails coming from email addresses associated with the disputed domain name on October 11, 2022.

The Respondent knew of the Complainant's activities at the time that it registered the disputed domain name. This is apparent from the way in which the website to which the disputed domain name originally resolved was the Complainant's website.

On the same date, the Complainant's lawyer wrote a cease and desist letter to the Respondent using the email address provided in the WHOIS extract for the disputed domain name. No response has been received.

The contact address for the Respondent supplied by the Registrar is that of a hotel in Florida. The contact details on a WHOIS search suggest an address in Germany that does not exist.

B. Respondent

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

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 and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name consists of the Complainant's distinctive trademark ALSTOM, the letter "o", the word "group" and the gTLD ".com".

The gTLD is irrelevant here as it is a standard registration requirement. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The addition of the letter "o" and the word "group" (the word "group" also included in a domain name of the Complainant consisting of its trademark and the gTLD ".com") does not prevent the recognition of the Complainant's trademark in the disputed domain name. As, section 1.8 of the [WIPO Overview 3.0](#) says:

"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, [...] meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

The insertion of the letter "o" after the Complainant's trademark appears to be a deliberate typographical error.

Section 1.9 of the [WIPO Overview 3.0](#) says:

"A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [...]"

Examples of such typos include [...] substitution of similar-appearing characters (e.g. [...] numbers used to look like letters)".

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 "Alstomogroup" or anything similar. There is no evidence that the Complainant has ever authorized the Respondent to use its trademarks. The Respondent does not appear to have used the disputed domain name for any legitimate purpose.

Based on the available record, where the Complainant has made out a preliminary case that the Respondent lacks rights or legitimate interests, and in the absence of any response on this point, 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 and Used in Bad Faith

In addition, the insertion of the letter “o” after the reproduction of the Complainant’s trademark and before the generic word “group” in the disputed domain name suggests that this is a typosquatting case.

Section 1.9 of the [WIPO Overview 3.0](#) says:

“Under the second and third elements, panels will normally find that employing a misspelling in this way signals an intention on the part of the respondent (typically corroborated by infringing website content) to confuse users seeking or expecting the complainant.”

The way in which the disputed domain name originally resolved to the Complainant’s website demonstrates that when the Respondent registered the disputed domain name, it knew about the Complainant’s business. The Respondent was either seeking to divert Internet users looking for the Complainant’s very similar website address “www.alstomgroup.com” to its own website or was seeking to use the disputed domain name to send fraudulent emails purporting to be the Complainant. There is some evidence suggesting that the Respondent tried to send emails impersonating the Complainant.

For all these reasons, the Panel concludes that the Respondent registered and is using the disputed domain name 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 <alstomogroup.com> be transferred to the Complainant.

/Adam Samuel/

Adam Samuel

Sole Panelist

Date: December 20, 2022