

## ADMINISTRATIVE PANEL DECISION

Alstom v. Name Redacted

Case No. D2023-0967

### 1. The Parties

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

The Respondent is Name Redacted<sup>1</sup>.

### 2. The Domain Name and Registrar

The disputed domain name <alstomco.com> is registered with Google LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Contact Privacy Inc. Customer 7151571251 / Contact Privacy Inc. Customer 01556049421) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 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 March 10, 2023.

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”).

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<sup>1</sup> The name of the Respondent appears to have been used without his consent when registering the disputed domain name. In light of potential identity theft, the Panel has redacted the Respondent’s personal name from the Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated that Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 6, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on April 24, 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 was established in 1928 and produces power generation, power transmission and rail infrastructure. It holds multiple trademarks including the following:

- International trademark registration number 706292 for ALSTOM in a particular script, registered on August 28, 1998, designating multiple jurisdictions, and specifying goods and services in multiple classes; and
- United States of America ("United States") Trademark Registration number 4570546 for ALSTOM, registered on July 22, 2014, specifying goods and services in classes 7, 9, 12, 35, 37, 39, and 42.

The above trademark registrations remain current. The Complainant also registered the domain name <alstom.com> on January 20, 1998 that it uses in connection with a website where it provides information about itself and its products. The Complainant has also registered other domain names, including <alstom.co>, registered on February 24, 2010, which does not resolve to an active website at the present time.

The Respondent is identified in the Registrar's Whois database as an individual and an organization. The Respondent organization's name is "alstonco" which seems to be an abbreviation of a third party's corporate name. The Respondent's personal name is that of an actual employee of that third party. The Respondent's contact street address seems to be inaccurate and is actually that of the Paramount Building in New York. The Respondent's email address has no relationship to the third party either.

The disputed domain name was created on January 11, 2023. It resolves to an error page; that is, it is passively held.

#### **5. Parties' Contentions**

##### **A. Complainant**

The disputed domain name is confusingly similar to the Complainant's ALSTOM mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. 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 its trademark. The Respondent states that its organization name is "Alstonco" so it is not comprehensible why it would reserve the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The disputed domain name completely reproduces the ALSTOM mark and was registered long after that mark became well known. The Respondent's alleged organization name is a misspelling. The Respondent's postal address is that of the Paramount Building in New York City. The disputed domain name was clearly intentionally registered in

order to create a likelihood of confusion with the Complainant's marks and reputation, most probably as part of a confidence scheme.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 burden of proof of each element is borne by the Complainant.

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

Based on the evidence presented, the Panel finds that the Complainant has rights in the ALSTOM mark.

The disputed domain name wholly incorporates the ALSTOM mark as its initial element, to which it adds the letters "co". The addition of these letters does not prevent a finding of confusing similarity because the ALSTOM trademark remains clearly recognizable within the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") (".com"). As a standard requirement of domain name registration, this element may be disregarded in the comparison with a mark for the purposes of the first element of paragraph 4(a) of the Policy unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

For the above reasons, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first condition in paragraph 4(a) of the Policy.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] of the dispute, [the respondent's] 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) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making 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.

With respect to the first and third circumstances set out above, the disputed domain name is passively held. There is no evidence of any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name either.

With respect to the second circumstance set out above, the Respondent individual's name in the Registrar's Whois database is nothing like the disputed domain name, while the Respondent's organization name is "Alstonco" (spelt with an "n", not an "m" as in "Alstom"). Nothing in the record indicates that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith but these circumstances are not exhaustive.

As regards registration, the disputed domain name was registered in 2023, years after the Complainant registered its ALSTOM trademarks, including in the United States where the Respondent is supposedly based. The disputed domain name wholly incorporates the ALSTOM mark, which has no meaning other than as the Complainant's mark. The Complainant has acquired a considerable reputation in that mark through longstanding and extensive use of it in connection with rail and other infrastructure, including in the United States. The Respondent offers no explanation for its choice of the disputed domain name. In view of these circumstances, the Panel is satisfied that the Respondent had the ALSTOM mark in mind when it registered the disputed domain name.

With respect to use, the Respondent makes only passive use of the disputed domain name but this does not prevent a finding of bad faith. See *Telstra Corporation Ltd v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the present dispute, the Respondent has wholly incorporated the ALSTOM mark in the disputed domain name, combining it with the letters "co" and a gTLD "com". The Respondent individual's name impersonates that of an employee of a third party and the contact street address is false, indicating that the Respondent has made efforts to conceal its identity and location. The Respondent provides no explanation of any potential good faith use of the disputed domain name. In all these circumstances, the Panel considers that the Respondent is using the disputed domain name in bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <alstomco.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: May 5, 2023