

ADMINISTRATIVE PANEL DECISION

Alstom v. Name Redacted

Case No. D2023-1123

1. The Parties

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

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <alstom-partner.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2023. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 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 16, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2023. The Respondent did not submit a formal response. On March 23, 2023, the Center received a communication from a third party, indicating that he is not the owner of the disputed domain name, nor has he any connection to its use. Accordingly, the Center notified the Parties with the Commencement of Panel Appointment Process email on April 19, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on April 27, 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 the French company Alstom founded in 1928. The Complainant is a global leader in the world of transport infrastructures and employs 74 000 professionals in more than 70 countries.

Its activity is well-known worldwide.

The Complainant is the owner of numerous trademarks for ALSTOM, including the following:

- French Trademark Registration No. 98727759 ALSTOM filed and registered on April 10, 1998, duly renewed;
- European Union Trademark Registration No. 000948729 ALSTOM registered on August 8, 2001, duly renewed.
- International Registration No. 706292 ALSTOM registered on August 28, 1998, for goods in services in Classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42 designating notably Algeria, China, Cuba, Germany, Egypt, Democratic People and others Republic of Korea, Japan, Mexico, Morocco, Russian Federation, Thailand, Viet Nam, United Kingdom, ...

The Complainant also owns several domain names containing ALSTOM, including <alstom.com>, registered since January 20, 1998.

The disputed domain name was registered on March 1, 2023, in the name of a privacy service, and it resolves to an inactive website.

On March 8, 2023, the Complainant sent a trademark claim to the Registrar and the Registrant, followed by a reminder on March 13, 2023.

The Complainant received no response from both the Registrar and the Registrant.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its earlier trademarks as it incorporates its earlier trademarks together with the term "partner" meaning "partenaire" in French. In addition, for the Complainant, given the reputation of the Complainant and its activities worldwide, the disputed domain name will be directly considered by the public as referring to Alstom's partner companies.

The Complainant further contends that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. Indeed, 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 trademarks. Finally, the Respondent has not applied for or obtained any trademark registrations related to the sign ALSTOM, whether this be in France, or in the European Union.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. Indeed, the Complainant submits that the disputed domain name, which wholly incorporates the ALSTOM trademarks, was acquired long after the Complainant's mark became well-known. Further it says that the ALSTOM trademarks are so well-known that it is impossible that the Respondent was not aware of the Complainant's business activities when it registered the disputed domain name.

The Complainant notes that the Respondent remained silent and did not reply to its cease-and-desist letter in order to put forward his legitimacy or rights regarding the disputed domain name, while he had the opportunity to do so.

Finally, the Complainant stresses that the disputed domain name is inactive. Passive holding demonstrated the Respondent's bad faith taking into account: the disputed domain name reverts to an error page and the associated email address was used in relation to credulous activities, namely attempting to extract huge sums of money from Alstom; the fact that the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use; the Respondent is concealing its identity and the implausibility of any good faith use to which the disputed domain name may be put; the telephone number provided appears to be false.

B. Respondent

The Respondent did not reply to the Complainant's contentions. A third party sent an email to the Center on March 23, 2023, indicating that he did not have ownership of the disputed domain name, nor any connection with its use and did not understand the notice he received.

6. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (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 was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The disputed domain name incorporates in its entirety the ALSTOM trademarks of the Complainant, which is usually considered sufficient to satisfy the requirement of the first element.

The addition of the word "partner" does not avoid a finding of confusing similarity, as the trademark ALSTOM is clearly recognizable in the disputed domain name.

Furthermore, the generic Top-Level Domain (“gTLD”) “.com” does not affect the confusing similarity between the disputed domain name and the trademarks. Indeed, according to well-established consensus among UDRP panels, the addition of gTLD extensions, such as “.com”, is not to be taken into consideration when examining identity or confusing similarity between a complainant’s trademark and the disputed domain name. See section 1.11, WIPO Overview of WIPO Panel Views on Select UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Consequently, the Panel finds the disputed domain name to be confusingly similar to the Complainant’s trademarks. The first element of the paragraph 4(a) of the Policy is thus fulfilled.

B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name: the Respondent is not commonly known under the disputed domain name, nor owns any registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way.

The inactive holding of the disputed domain name in these circumstances is not a legitimate noncommercial or fair use within paragraph 4(c)(iii) of the Policy. There is no contrary evidence from the Respondent showing that it is making use of or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services within paragraph 4(c)(i) of the Policy.

Moreover, the email of the third party shows that the registration of the disputed domain name is more than likely the result of an identity theft.

Given such evidence and the absence of contrary evidence from the Respondent, the Panel considers that it is not possible for the Respondent to establish that it has rights or legitimate interests in the disputed domain name.

The Panel therefore finds, noting the Complainant’s *prima facie* arguments and the absence of a response, that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Given the strong reputation of the Complainant’s ALSTOM’s trademarks, the Panel considers that the Respondent knew or should have known of said trademarks at the time of the registration of the disputed domain name. Noting the circumstances of the case, such knowledge is sufficient to establish that the disputed domain name was registered in bad faith.

Furthermore, the Panel finds that the Respondent’s efforts to conceal its identity through the use of a Whois privacy service can be construed as further evidence that the disputed domain name was registered in bad faith.

In addition, the Complainant has provided evidence that the Respondent’s phone number, as registered with the Registrar, appears to be incorrect, which further demonstrates bad faith of the Respondent at the time of the registration.

In the circumstances, the Panel concludes that the Respondent was aware of the Complainant's prior rights when it registered the disputed domain name.

With respect to the use of the disputed domain name, the passive holding of the domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

In the present case, the following facts have been found to demonstrate that the passive holding is evidence of bad faith:

- The disputed domain name reverts to an error page;
- The Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use;
- The Respondent is concealing its identity; and
- The implausibility of any good faith use to which the disputed domain name may be put.

In light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate under the Policy.

In these circumstances the Panel finds that the disputed domain name was registered and is being used in bad faith within paragraph 4(a)(iii) 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, <alstom-partner.com>, be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: May 11, 2023