

ADMINISTRATIVE PANEL DECISION

ALSTOM v. Jarrad Craven

Case No. D2023-1167

1. The Parties

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

The Respondent is Jarrad Craven, Australia.

2. The Domain Name and Registrar

The disputed domain name <alstomigroup.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2023. On March 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 20, 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 22, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 14, 2023.

The Center appointed George R. F. Souter as the sole panelist in this matter on April 20, 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 global leader in the world of power generation, power transmission, and rail infrastructure, employing 74,000 professionals in more than 70 countries.

It is the proprietor of numerous trademark registrations of its ALSTOM trademark internationally, including United States of America (“United States”) registration number 85250501, registered on July 22, 2014, and International Registration number 706292, registered on August 28, 1998.

The disputed domain name was registered on March 9, 2023, and currently resolves to an error page.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its ALSTOM trademark, containing its ALSTOM trademark in its entirety, together with merely descriptive or non distinctive elements.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that the Respondent is not commonly known by the disputed domain name, and the Complainant has never granted permission to the Respondent to use its ALSTOM trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

- (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.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in ALSTOM trademark by virtue of the above-mentioned trademark registration.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain (“gTLD”) may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the “.com” gTLD” to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant's ALSTOM trademark is clearly recognizable in the disputed domain name, rendering the disputed domain names confusingly similar to the Complainant's trademark. The additional elements in the disputed domain name do not prevent this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain names at issue.

B. Rights or Legitimate Interests

The Panel considers that the Complainant's allegations are sufficient to provide a *prima facie* case under this heading.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case. Generally, "a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry" (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.5). While the disputed domain name is not actively used, the composition of the disputed domain name, incorporating the ALSTOM mark in its entirety, is such to carry a risk of implied affiliation to the Complainant, contrary to the fact, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1. Moreover, the lack of use of the disputed domain name cannot be considered a *bona fide* offering.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstance of the present case, in which the Panel regards it as self-evident that the Complainant's ALSTOM trademark was deliberately appropriated in the disputed domain name are such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain name and so finds.

Since the decision in *Telstra Corporation v Nuclear Marshmallows*, WIPO Case [D2000-0003](#), it has become well-established in subsequent decisions that the current non-use of a disputed domain name does not evade the provision of paragraph 4(a)(iii) of the Policy when considering the totality of the circumstances. Here, given the distinctiveness of the ALSTOM mark, the incorporation of the ALSTOM mark its entirety in the disputed domain name by the unaffiliated Respondent, the Respondent's use of a privacy service to mask its details on the publicly-available WhoIs, and the implausibility of any good-faith subsequent use of that disputed domain name, the Panel considers that the current non-use does not prevent a finding of bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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, <alstomigroup.com>, be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: May 4, 2023