

ADMINISTRATIVE PANEL DECISION

Alstom v. Name Redacted alstomgroup
Case No. D2023-2954

1. The Parties

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

The Respondent is Name Redacted United States of America.¹

2. The Domain Name and Registrar

The disputed domain name <alstomgroup.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 July 11, 2023. On July 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 13, 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 July 17, 2023.

The Center verified that the Complaint together with the amendment to the Complaint/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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 July 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 22, 2023.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on August 25, 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 in this administrative proceeding is ALSTOM, a French limited company incorporated back in 1928 and doing business worldwide in the area of power generation, power transmission and rail Infrastructure. The Complainant employs 80,000 professionals in more than 70 countries. Notably in the United States of America (the "United States"), the Complainant employ 4,500 employees across 45 sites in 19 states.

The Complainant owns a number of trademarks registrations in different jurisdictions. By way of example, in the United States Patent and Trademark Office:

ALSTOM with registration n°85507371, registered on April 2, 2013.

ALSTOM with registration n°85250501, registered on February 24, 2011.

ALSTOM trademark is to be considered well-known in previous decisions rendered under the UDRP.

The Complainant owns a portfolio of domain names in connection to the mark ALSTOM. As such: <alstom.com> registered on January 20, 1998 or <alstomgroup.com> registered November 14, 2000.

The disputed domain name was registered on June 27, 2023 and was inactive at the time of filing of the Complaint. The Complainant sent a cease and desist letter on June 30, 2023 to the Respondent via the Registrar's Whois contact email. The Respondent did not answer.

The disputed domain name has been registered by impersonating an existent employee name of the Complainant in the United States of America who is not involved in the dispute. The registration record claims the Respondent to be part of the "alstomgroup" organization.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, with regard to the third requirement, the Complainant alleges that the Respondent concealed his identity via a privacy shield service, and the contact information provided appears to be false. Indeed, says the Complainant, the Respondent's company does not exist, and the telephone number provided correspondent to Georgia, not to Texas, where the Respondent points of having his address. In addition, the registrant disclosed by the Registrar is not part of the Complainant's staff and, seemingly, a person working at the Royal Exchange of Nigeria corporation.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

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

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a substantive Response. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel also finds that the disputed domain name consists of an obvious or intentional misspelling of ALSTOM. While the addition of other terms here, "group" may bear on assessment of the second and third elements, the Panel finds the addition of such term do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Indeed, none of the examples of circumstances giving rise to rights or legitimate interests enumerated in the paragraph 4(c) of the Policy apply in the present case.

Further, panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As noted in the previous heading, the disputed domain name was used to impersonate the Complainant. Such use constitutes bad faith as pointed out in [WIPO Overview 3.0](#), section 3.4.

Besides, the Panel notes section 3.1.4 of [WIPO Overview 3.0](#) where: “[p]anel has consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or, widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”

Further, as set out in [WIPO Overview 3.0](#), section 3.6: “[w]here it appears that a respondent employs a privacy or proxy service merely to avoid being notified of a UDRP proceeding filed against it, panels tend to find that this supports an inference of bad faith.” While the use of the proxy service is apparent, the phone contact information is contradictory and both circumstances tilt the balance to support a finding of bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

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

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: September 8, 2023