

## **ADMINISTRATIVE PANEL DECISION**

Alstom v. Ray Peterson  
Case No. D2023-4640

### **1. The Parties**

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

The Respondent is Ray Peterson, United States of America ( "USA" or "United States" )

### **2. The Domain Name and Registrar**

The Disputed Domain Name <aistomgroup.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 November 8, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 9, 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 November 10, 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 November 14, 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 November 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 8, 2023.

The Center appointed Mireille Buydens as the sole panelist in this matter on December 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 French company operating in the fields of power generation, power transmission and rail infrastructure. It was founded in the 1928. Currently, the Complainant employs around 74,000 professionals in more than 70 countries, including the United States. In the United States, the Complainant has been present for more than 170 years and employs 4 500 employees across 45 sites in 19 states.

The Complainant is the owner of numerous ALSTOM trademark registrations (“the Trademark”), including:

- The United States Trademark Registration for ALSTOM (word and figurative) No. 2898433, registered November 2, 2004;
- the United States Trademark Registration for ALSTOM (word), No. 4570546 registered on July 22, 2014;
- the International Trademark Registration for ALSTOM (word and figurative), No. 706292 registered on August 28, 1998;
- the European Union Trade Mark Registration for ALSTOM (word), No. 000948729 registered on August 8, 2001.

The Complainant is also the owner of the numerous domain names incorporating the Trademark and the descriptive word “group”, including <alstomgroup.com> (registered since November 14, 2000).

The Disputed Domain Name was registered on October 25, 2023. The Disputed Domain Name is passively held. The Complainant submits evidence that, at the date of the Complaint, the Disputed Domain Name resolves to an error page. At the date of this decision, the Panel found that the Disputed Domain Name still directs to a page mentioning “this site can’t be reached”.

On November 2, 2023, the Complainant sent an email to the Registrar requesting that it cuts off access to the URL “www.aistomgroup.com” and provide the holder’s contact information so that they may attempt to settle the matter. The Complainant did not receive satisfactory answer.

#### **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.

First, the Complainant asserts that it owns registrations for the Trademark. The Complainant considers that the Disputed Domain Name is confusingly similar to the Complainant’s Trademark. The “AISTOM” element is confusingly similar to the term “ALSTOM”. The letter “L” is simply replaced by a letter “I”, which is visually similar to the letter “I”. The term “group” is not distinctive as it only refers to a group of companies. The generic top level domain name (“gTLD”) should be disregarded.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent is not commonly known under the Disputed Domain Name and does not own any trademark related to 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 the Trademark.

Third, the Complainant asserts that the Disputed Domain Name was registered and is being used in bad faith. The Complainant submits that the Complainant’s Trademark (which predates the registration of the Disputed Domain Name) is so well-known that it is inconceivable that the Respondent ignored the Complainant and its earlier rights. The Complainant further explains that the Disputed Domain Name is a

clear case of deliberate typosquatting. "AISTOM" is a misspelling of the term "ALSTOM". The letter "L" is replaced by a letter "I", which is visually similar to the letter "I" and will not be noticed by Internet users. The Complainant further asserts that the Disputed Domain Name is not related to the Respondent or its company name. The Complainant also refers to the fact that the Respondent did not respond to the email sent to its attention (this email was sent to the registrar). The Complainant further contends that the Disputed Domain Name is not used in relation to a *bona fide* offering of goods or services but is passively held and would have been used for a phishing attempt towards one of its employees. The Complainant also points out that the Respondent has concealed its identity by registering the domain name via an anonymization company and by providing false contact details. In this regard, the Complainant points out that the postal address provided to the registrar does not appear to exist (the name of the street does not exist in the town where it is supposed to be located, the town is not in the mentioned State, the post code provided does not correspond to the town, the telephone number does not match the State where the Respondent pretends to be located and the name of the Respondent's company appears not to exist, either).

## **B. Respondent**

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

## **6. Discussion and Findings**

Dealing with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (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**

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 the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Trademark is recognizable within the Disputed Domain Name. 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 ([WIPO Overview 3.0](#), section 1.9). In the case at hand, the Disputed Domain Name consists, in its first part, the word "AISTOM", which is a misspelling of "ALSTOM". There is a substitution of a similar-appearing character as the letter "L" in "ALSTOM" has been replaced by the letter "I", which is visually similar to the letter "L". The Disputed Domain Name also contains the descriptive word "group". Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element ([WIPO Overview 3.0](#), section 1.8.). Although the addition of other terms (here, the word "group") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent

a finding of confusing similarity between the Disputed Domain Name and the Trademark for the purposes of the Policy. Accordingly, the Disputed Domain Name is confusingly similar to the Trademark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7).

The generic Top-Level Domain (“gTLD”) “.com” is a standard registration requirement and does not prevent the Disputed Domain Name from being confusingly similar to the Trademark ([WIPO Overview 3.0](#), section 1.11.1).

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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.

The Respondent is not licensed by or affiliated with the Complainant in any way. There is no evidence that the Respondent would be commonly known under the Disputed Domain Name, which clearly differs from his own name and the name of his company, nor is there any evidence of use or demonstrable plans to use the Disputed Domain Name for a *bona fide* offering of goods or services. There is no evidence of legitimate non-commercial or fair use of the Disputed Domain Name, either. The Disputed Domain Name resolves to an error page.

The Panel notes that the composition of the Disputed Domain Name carries a risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1). The composition of the Disputed Domain Name, adding the descriptive word “group” to an obvious misspelling of the Complainant’s Trademark, along with the gTLD “.com”, affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the Disputed Domain Name and the Complainant’s Trademark. This confirms that there is no use, nor preparations to use, of the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel considers that the Disputed Domain Name has been registered in bad faith due to the following circumstances. First, the Disputed Domain Name is confusingly similar to the Complainant's well-known Trademark (which predates the registration of the Disputed Domain Name) and is also confusingly similar to numerous domain names registered by the Complainant. The Disputed Domain Name is, in its first part, a clear case of deliberate typosquatting: "AISTOM" is a misspelling of the term "ALSTOM", the letter "L" being replaced by the letter "I", which is visually similar to the letter "L" and will not be noticed by Internet users. The addition of the descriptive word "group" further indicates bad faith as the Complainant is using ALSTOMGROUP as the distinctive part of many of its domain names. The Panel also notes in this regard that the Complainant owns registrations for the Trademark and is carrying business in the United States, where the Respondent is located. As a result, the Respondent was more likely than not aware of the Complainant's earlier rights at the time of the registration of the Disputed Domain Name ([WIPO Overview 3.0](#) section 3.1.4). The Respondent has sought to create a misleading impression of association with the Complainant.

There are recognized legitimate uses of privacy and proxy registration services; the circumstances in which such services are used can however impact a panel's assessment of bad faith. Panels additionally view the provision of false contact information underlying a privacy or proxy service as an indication of bad faith. ([WIPO Overview](#), section 3.6). In the case at hand, the Panel notes that the Respondent has concealed its identity by registering the Disputed Domain Name via an anonymization company and by providing false contact details (in the address provided by the Respondent to the Registrar, it appears the name of the street does not exist in the town where it is supposed to be located, the town is not in the mentioned State, the post code is incorrect and the phone number does not match the State where the Respondent pretends to be located, either). This is a further indication of bad faith.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's Trademark and the composition of the Disputed Domain Name, the failure of the Respondent to submit a response and the Respondent's concealing its identity and providing false contact information. The Panel finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <aistomgroup.com> be transferred to the Complainant.

*/Mireille Buydens/*

**Mireille Buydens**

Sole Panelist

Date: January 3, 2024