

## ADMINISTRATIVE PANEL DECISION

Alstom v. Kimiko Nadia  
Case No. D2023-4661

### 1. The Parties

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

The Respondent is Kimiko Nadia, United States of America.

### 2. The Domain Name and Registrar

The Disputed Domain Name <alst0mgroup.com> (“the Disputed Domain Name”) is registered with Gandi SAS (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2023. On November 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 13, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 15, 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 7, 2023.

The Center appointed Jacques de Werra as the sole panelist in this matter on December 12, 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 created in 1928 which is a global leader in the world of power generation, power transmission and rail infrastructure, employing 80,000 professionals in more than 70 countries, over 250 sites. The Complainant develops and markets a complete range of systems, equipment, and services in the railway industry, and have activities around the world including in the USA, where the Complainant has been present for more than 170 years, actively contributing to the development of urban transport in the country.

The Complainant holds trademarks registrations comprising the word “ALSTOM” in numerous jurisdictions worldwide (“the Trademark”), including the following trademark registrations:

- International Registration N°706292 covering the word “alstom” filed on August 28, 1998, duly renewed, covering goods and 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 numerous countries including, for example, China, Democratic People’s Republic of Korea, Egypt, Morocco, Norway, Russian Federation, United Kingdom, Viet Nam);

- European Union Trademark Registration N°000948729 covering the word “ALSTOM” registered on August 8, 2001, duly renewed, in classes 6, 7, 9, 11, 12, 13, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.

The Complainant is also the registrant of numerous domain names under various generic and country-code Top-Level Domains that reflect the Trademark including <alstom.com> (registered since January 20, 1998) and <alstomgroup.com> (registered since November 14, 2000).

The Disputed Domain Name was registered on October 3, 2023. It resolves to a parking page.

The Complainant sent a cease-and-desist letter to the Respondent on October 6, 2023 (and a reminder on October 17, 2023) to which the Respondent did not react.

#### **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, the Complainant contends that the Disputed Domain Name is confusingly similar to the Trademark according to Paragraph 4(a)(i) of the Policy because the Disputed Domain Name results in the combination of the elements “alst0m” and of the element “group” (which refers to a group of companies) and of the suffix “.com” (which only indicates that the domain name is registered in the “.com” generic Top-Level Domain), and that the “ALSTOM” element is visually confusingly similar to the term “alstom” (the letter “o” is simply replaced by the number “0”), whereby this difference is barely noticeable, particularly when people are expecting to read “alstom”, and given the fact that the number “0” is visually extremely similar to the letter “o”. This risk of confusion is all the more heightened due to ALSTOM’s well-known character and reputation.

The Complainant further contends that the Respondent has failed to prove his rights or legitimate interests in respect of the Disputed Domain Name, that the Respondent is not affiliated in any way to the Complainant and that the Complainant has not authorized, licensed or permitted the Respondent to register or use a domain name incorporating the Trademark. The Respondent has not applied for or obtained any trademark registrations related to the Trademark and is not commonly known under the name “alstom”, nor an employee/partner of the Complainant.

The Complainant also submits that the Disputed Domain Name was registered and is being used in bad faith because the Disputed Domain Name incontestably imitates the Complainant’s Trademarks, and was acquired long after the Trademark became well-known, because the Disputed Domain Name is a clear case of deliberate typo-squatting, because the Respondent remained silent and did not reply to the Complainant’s cease-and-desist letter in order to put forward its legitimacy or rights to the Disputed Domain Name, because the Disputed Domain Name is not used in relation to a *bona fide* offering of goods or services and because the Respondent attempted to conceal its identity.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 Trademark is recognizable within the Disputed Domain Name because the Disputed Domain Name contains the number “0” instead of the letter “o”, whereby they are visually very similar and because the element of the Disputed Domain Name is “alst0m” to which the term “group” has been added (which does not affect the finding of confusing similarity). Accordingly, the Disputed Domain Name is confusingly similar to the Trademark for the purposes of the Policy, whereby this case can be assimilated to a case of misspelling. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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, which has not participated to the proceedings, 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. In this respect, the Panel holds that the Respondent has not demonstrated that the use of the Disputed Domain Name as a parked page would represent a *bona fide* offering that would create rights or legitimate interests of the Respondent in the Disputed Domain Name.

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 notes that the Respondent has not actively used the Disputed Domain Name because the website associated with the Disputed Domain Name only indicates that the Disputed Domain Name is registered with the Registrar. This situation can be assimilated to the case of the passive holding of domain names under the Policy.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 or reputation of the Complainant's Trademark, the Respondent's lack of response to the Complainant's contentions, and the composition of the Disputed Domain Name which cannot reasonably be understood otherwise than a reference to the Trademark, and 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 <alst0mgroup.com> be transferred to the Complainant.

*/Jacques de Werra/*

**Jacques de Werra**

Sole Panelist

Date: December 28, 2023