

## **ADMINISTRATIVE PANEL DECISION**

Alstom v. Unical Express  
Case No. D2023-4840

### **1. The Parties**

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

The Respondent is Unical Express, United States of America (“US”).

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2023. On November 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 24, 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 (Unkown) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 28, 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.

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 January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. The Respondent sent email communications to the Center on:

- November 28, 2023
- November 29, 2023
- November 30, 2023
- December 4, 2023
- January 4, 2024.

The Complainant on January 15, 2024, requested the Respondent to sign the Standard Settlement Form provided by the Center confirming that the disputed domain name should be transferred to the Complainant. On January 19, 2024, the Complainant informed the Center of its request for continuing the proceedings in the absence of any response from the Respondent.

On January 26, 2024, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on February 15, 2024. 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 established in 1928 specialized in the development and production of power generation, power transmission, and rail infrastructure, employing 74,000 professionals in more than 70 countries, over 350 sites.

The Complainant has important activities in the US with 4,500 employees across 45 sites in 19 states, including in Hornell and Plattsburgh in New York, Pittsburgh and West Mifflin in Pennsylvania, and Pittsburg in California.

Since 1982, the Complainant has manufactured close to 4,200 subway cars (R2, R28, R29, R32, R36, R42, R44, R46, R62A, R142, R160 and R179) for the New York City Transit, the largest public transport agency in North America and one of the largest in the world.

The Complainant owns multiple national, international and/or regional trademark registrations for ALSTOM including the followings:

- US Trademark No. 85250501 ALSTOM in classes 7, 9, 12, 35, 37, 39, and 42, registered on July 22, 2014;
- International Trademark Registration No. 706292 ALSTOM in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42, registered on August 28, 1998;
- European Union Trademark Registration No. 018020648 ALSTOM in classes 7, 9, 12, 37, 39, and 42, registered on August 28, 2019;
- International Trademark Registration No. 706360 ALSTOM registered in 1998 covering the classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42, registered on August 28, 1998.

The Complainant's ALSTOM trademark has been recognized as a well-known trademark in previous UDRP decisions. *ALSTOM v. Daniel Bailey*, WIPO Case [D2010-1150](#); *GENERAL ELECTRIC COMPANY v. Islam Gamal and Begad Negad, YourServ.CoM*, WIPO Case [D2016-0553](#).

The Complainant owns and operates the domain name <alstom.com> since 1998 and is the owner of the following domain names which redirect to its main domain name <alstom.com>:

- <alstom.net>
- <alstom.co.uk>
- <alstom.info>
- <alstom.cn>
- <alstom.org>
- <alstom.fr>
- <alstom.ca>
- <alstom.kr>

- <alstomgroup.com>
- <alstomgroup.net>
- <alstomgroup.fr>
- <alstomgroup.eu>

The disputed domain name was registered on November 13, 2023, in the name of the Respondent.

On November 15, 2023, the Complainant sent a letter to the registrant of the disputed domain name requesting to cease of all use and transfer the disputed domain name to the Complainant to which the Respondent did not respond.

At the time of submission of the Complaint, the disputed domain name resolved to a website which reproduced, inter alia, the Complainant's name, official logo, and the names and photos of the Complainant's CEO and board of Directors. The Panel visited the disputed domain name on March 8, 2024, and observed that the disputed domain name does not resolve to an active website.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant requests the transfer of the disputed domain name.

The Complainant asserts that the disputed domain name is identical or in any case confusingly similar to the Complainant's trademark ALSTOM.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark ALSTOM.

Finally, in addressing the question of registration and use of the disputed domain name in bad faith, the Complainant submits with substantial evidence that the Respondent targeted the Complainant's well-known trademark as the disputed domain name is redirected to web page reproducing the Complainant's name, official logo, a video presenting the Complainant's activities, which is also accessible on the Complainant's official website, "www.alstom.com", as well as the Complainant's graphic charter. The web page also reproduced the names and photos of the Complainant's CEO and board of Directors, proposing to invest in the Complainant's project.

The Complainant contends that the registration of the disputed domain name is a clear case of an abusive registration within the meaning of paragraphs 4(b)(iii) and (iv) of the Policy.

### **B. Respondent**

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

On January 4, 2024, the Respondent informed that it is a domain name seller and buys and re-sells domain names with one dollar difference. The Respondent also stated that it is "not understanding any of this" and without any supporting evidence alleged that "what caused all this a client user registered account and bought domain from us". In this regard, the Panel notes that the Registrar has confirmed that the "Name of the Registrant" of the disputed domain name is the Respondent.

## 6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the remedy it has requested:

- (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 has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. As indicated above, the Complainant holds several trademark registrations for the ALSTOM trademark.

The disputed domain name <the-alstom> integrates the Complainant's ALSTOM trademark in its entirety.

The disputed domain name differs from the registered ALSTOM trademark by the additional article "the" and the sign "-".

These additions do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. As regards the generic Top-Level Domain ("gTLD"), it is typically disregarded under the confusing similarity test.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### B. Rights or Legitimate Interests

The Panel finds that the Complainant has made a prima facie showing of a lack of the Respondent's rights or legitimate interests in the mark. The burden of production has therefore shifted to the Respondent to come forward with appropriate allegations demonstrating rights or legitimate interests under the second element of the paragraph 4(a) of the Policy. Considering that the Respondent did not reply to the Complainant's contentions, the Respondent did no effort to demonstrate any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel determines the Complainant has sufficiently demonstrated that the Respondent lacks any rights or legitimate interests in the disputed domain name.

### C. Registered and Used in Bad Faith

The Panel accepts the Complainant's contention that the trademark ALSTOM is without any doubt a well-known trademark. The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith. *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#).

Based on the available record, the disputed domain name resolved to a website which reproduced the Complainant's name, official logo, a video presenting the Complainant's activities, which is also accessible on the Complainant's official website, "www.alstom.com", as well as the Complainant's graphic charter. The website also reproduced the names and photos of the Complainant's CEO and board of Directors, proposing to invest in the Complainant's project.

Lastly, on November 15, 2023, the Complainant sent a letter to the registrant of the disputed domain name requesting to cease of all use and transfer the disputed domain name to the Complainant to which the Respondent did not respond. Therefore, the Panel finds that the Respondent is completely insincere in its unofficial submissions to the Center informing that he is not understanding what to do with the Center's Notification of Complaint.

In these circumstances, the Panel is persuaded that the Respondent's registration and use of the disputed domain name directly targeted the Complainant and constitutes bad faith registration and use of the disputed domain name. The only reason for the registration of the disputed domain name must have been with bad faith intent to exploit, for commercial gain, the Complainant's reputation. As demonstrated above, the Respondent has used the disputed domain name for precisely that purpose. The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith.

Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

## **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 <the-alstom.com> be transferred to the Complainant.

*/Emre Kerim Yardimci/*

**Emre Kerim Yardimci**

Sole Panelist

Date: March 9, 2024