

## **ADMINISTRATIVE PANEL DECISION**

Alstom v. Carolina Rodrigues, Fundacion Comercio Electronico  
Case No. D2023-4902

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <actionalstomanalyse.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 24, 2023. On November 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 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 (Domains by Proxy, LLC, DomainsByProxy.com) 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 on December 1, 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 December 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 2, 2024.

The Center appointed Theda König Horowicz as the sole panelist in this matter on January 11, 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 created in 1928. It is a global leader in the world of transport infrastructures, employing 34.000 professionals in more than 60 countries. It operates worldwide including in Panama where the Respondent is based and is active in the manufacture and overhaul of rolling stock.

ALSTOM holds registrations that comprise the word "ALSTOM" in numerous jurisdictions around the world, including the following trademark registrations:

- US Trademark Registration N°85507365 registered November 6, 2012.
- International Registration N°706292 registered August 28, 1998.

ALSTOM is also the registrant of numerous domain names under various generic and country code Top-Level Domains that comprise its trademark, such as <alstom.com> registered since January 20, 1998, and <alstomgroup.com> registered on November 14, 2000, both redirecting to the ALSTOM group's website.

The disputed domain name was registered on August 7, 2023.

On August 23, 2023, the Complainant sent a trademark claim by email to the Registrar in order to assert their prior rights to the trademark ALSTOM and notably requested the Registrar to disclose the Registrant's contact details and to suspend the disputed domain name and any related websites. The Registrar responded that action should be taken through the available UDRP proceedings.

The same day, the Complainant reached out to the Respondent through the Registrar online form, in order to assert their prior rights to the trademark ALSTOM and request the Registrant to clarify the reasons of the registration of the disputed domain name and transfer this domain to ALSTOM. The Respondent did not answer.

On October 16, 2023, the Complainant asked the web host provider of the disputed domain name to suspend the disputed domain name. The Complainant did not receive a response.

At the time of the filing of the Complaint, the disputed domain name redirected to different websites with no direct link to the Complainant's activities.

#### **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 their numerous trademarks ALSTOM according to paragraph 4(a)(i) of the Policy. Indeed, the disputed domain name wholly and identically reproduces the prior marks of the Complainant. ALSTOM, which has been recognized as well-known by several Panels in other cases, is easily and directly recognizable within the disputed domain name; it is associated with the usual and descriptive French words, namely "action" ("share" in English) and "analyse" ("analysis" in English). The disputed domain name will therefore lead web users to believe that it

displays ALSTOM's analysis of their shares on the stock market. This is all the most probable since ALSTOM is listed on the French stock exchange.

The Complainant also contends that the Respondent does not have rights or legitimate interests in respect of the disputed domain name under paragraph 4(a)(ii). The Respondent is not affiliated in any way to ALSTOM. The Complainant never authorized a third party to register a domain name composed of the mark ALSTOM or to the denomination ACTION ALSTOM ANALYSE. To the best of the Complainant's knowledge, the Respondent did not apply for or obtain any trademark registrations related to the mark ALSTOM. Moreover, the Respondent remained silent to the trademark claim sent on August 23, 2023. Finally, the content of the website "www.actionalstomanalyse.com" is constantly changing since the registration date of the disputed domain name. It is therefore quite clear that the Respondent has not made use or prepared to use the disputed domain name in connection with a bona fide offering of goods or services.

Finally, the Complainant contends that the Respondent's bad faith in registering the disputed domain name should be established because: (i) the disputed domain name was acquired long after ALSTOM's marks became well-known; (ii) the Respondent is trying to hide its real identity; (iii) the Respondent is known as a cybersquatter; and (iv) the disputed domain name is used as a dynamic website.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

### **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.

The Complainant has shown rights in respect of the trademark ALSTOM or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the ALSTOM mark is reproduced within the disputed domain name. Notwithstanding the addition of the generic French terms “action” and “analyse”, the Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and [WIPO Overview 3.0](#), section 1.8.

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 disputed domain name contains the Complainant’s trademark ALSTOM in entirety. Even if it includes the additional terms “action” and “analyse” which are generic, such composition cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. There is therefore a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Furthermore, the Respondent was involved in a large number of other UDRP cases and is known as a cybersquatter. It is therefore obvious that the Respondent has no rights or legitimate interests in the disputed domain name, particularly since the disputed domain name entirely reproduces the Complainant’s well-known trademark.

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 likely knew about the Complainant’s well-known trademark when registering the disputed domain name, as it entirely reproduces the Complainant’s well-known trademark, and therefore registered the disputed domain name in bad faith.

As mentioned above, the Respondent was involved in a large number of other UDRP cases. Panels have held that as few as two instances of abusive domain name registration can establish a pattern of bad faith conduct. [WIPO Overview 3.0](#), section 3.1.2. The Respondent is thus engaged in a pattern of bad faith conduct which constitutes bad faith use under the Policy.

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 <actionalstomanalyse.com> be transferred to the Complainant.

*/Theda König Horowicz/*

**Theda König Horowicz**

Sole Panelist

Date: February 5, 2024