

ADMINISTRATIVE PANEL DECISION

Alstom v. Paul Richards
Case No. D2024-0545

1. The Parties

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

The Respondent is Paul Richards, United States of America.

2. The Domain Names and Registrar

The disputed domain names <alstomgrouppty.com> and <alstompty.com> (the “Disputed Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2024. On February 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same date, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registration Private / Redacted for Privacy, Privacy service provided by N/A, Withheld for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 12, 2024, 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 February 15, 2024.

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 February 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2024.

The Center appointed Jane Lambert as the sole panelist in this matter on March 25, 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 public company incorporated with limited liability in France in 1928 with subsidiaries in over 60 countries. The Complainant and its subsidiaries employ 80,000 staff at more than 250 locations. They make and sell all kinds of equipment for the railways including locomotives, rolling stock, signaling and power generation. Between 2022 and 2023 they received orders worth EUR 20.7 billion and generated sales of EUR 16.5 billion.

A particularly important market for the Complainant is the United States of America (“US” or “USA”). Enterprises that have been incorporated into the Complainant’s business have traded there for over 170 years. To date, it has supplied over 12,000 new or reconditioned vehicles to US customers and over half of the signaling equipment on North America’s railways.

The Complainant has registered the following trade marks:

Mark	Country or Region	Number	Filing Date / Registration Date	Class
ALSTOM	European Union	000948729	September 30, 1998 / August 8, 2001	6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42
ALSTOM	United Kingdom	00900948729	September 30, 1998 / August 8, 2001	6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42
ALSTOM (figurative)	USA	85507365	January 3, 2012 / November 6, 2012	12

It holds similar registrations in many countries around the world. Particulars of its trade mark portfolio were annexed to the Complaint.

“ALSTOM” and the abbreviation “SA” (which stands for “Société Anonyme” indicating that it is a public limited company) comprise the Complainant’s corporate name. Many of the Complainant’s subsidiary companies incorporate the word “ASTOM” into their corporate names as in ALSTOM Power and ALSTOM Grid.

The Complainant has also registered domain names that include the mark ALSTOM in many generic and country-code Top-Level Domains including the following: <alstom.com>, <alstomgroup.com>, <alstom-group.com>, <alstomgroup.net>, <alstom-group.net> and <alstom.net>. Particulars of its other domain names have also been supplied.

The domain name <alstom.com> is the universal resource locator of the home page of the Complainant’s website (a screen image of which has been reproduced in the Complaint). Many of the other domain names that the Complainant holds redirect to that home page.

Little is known about the Respondent beyond the name and address that have been supplied to the Center by the Registrar. The Complainant's trade mark attorneys carried out a reverse look-up of the name "paul richards" and found 681 entries. As "Paul" and "Richards" are common first and family names in most English-speaking countries, those entries may relate to more than one person.

Neither Disputed Domain Name has been used since it was registered.

By an email dated December 21, 2023, the Complainant's trade mark attorneys asked the Registrar to

- "disclose the registrant's identity and contact details so that our client can contact him to assert their rights;
- suspend the domain name <alstompty.com> and <alstomgrouppty.com> and any websites, email addresses related to this domain name."

They also requested an explanation for the registration of the Disputed Domain Names and their transfer by another email dated December 21, 2023 to the Respondent's anonymized email address. They did not receive a reply either from the Registrar or from the Respondent.

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 Names.

Notably, the Complainant submits that:

- The Disputed Domain Names are confusingly similar to trade marks in which the Complainant has rights;
- The Respondent has no rights or legitimate interests in the Disputed Domain Names; and
- The Disputed Domain Names were registered and are being used in bad faith.

In support of its contention that the Disputed Domain Names are confusingly similar to trade marks in which it has rights, the Complainant points out that both Disputed Domain Names reproduce the ALSTOM mark in its entirety and the letters "pty", in some countries those letters are an abbreviation for "proprietary" which indicates a type of company. The Disputed Domain Name <alstomgrouppty.com> also adds the term "group" which indicates a group of companies. Referring to the third paragraph of section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDR-P Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Complainant observes that where a domain name incorporates a trade mark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to the mark.

That is particularly the case with a distinctive trade mark of a company that is as well known as the Complainant. To support that proposition, the Complainant cites *ALSTOM v. Daniel Bailey*, WIPO Case No. [D2010-1150](#) where the panel found that the "Complainant's registered trade marks are distinctive in its field of activity and have reached strong reputation and notoriety in many countries."

The Complainant fears that Internet users will recognize the Complainant's trade marks and trade name within the Disputed Domain Names and mistake them for the Complainant's. They might believe that those domain names were registered by the Complainant to promote its activities.

The Complainant refers to many cases including *Alstom S.A. and General Electric Company v. Sichuan Electricity Transmission and Distribution Engineering*, WIPO Case No. [DCO2016-0032](#) where it was observed that “in determining whether a domain name is identical or confusingly similar to a complainant’s mark, UDRP panels have typically disregarded the generic Top-Level Domain (“gTLD”) or the ccTLD.”

In respect of its submission that the Respondent has no rights or legitimate interests in the Disputed Domain Names, the Complainant starts by observing that the Respondent is not affiliated to it in any way and that it has never authorized a third party to register a domain name that reproduces its ALSTOM trade mark. More specifically it has never authorized, licensed or permitted the Respondent to register or use a domain name that incorporates its trade mark or to incorporate a company that includes its trade name.

The Respondent has not obtained or applied for any trade mark registrations related to the sign ALSTOM and is not commonly known by that name. He has not responded to the Complainant’s email of December 21, 2023 inviting him to explain his registration of the Disputed Domain Names. He has never attempted to use the Disputed Domain Names.

As for the allegation that the Disputed Domain Names were registered and are being used in bad faith, the Complainant argues first that the registration of domain names that incorporate the trade marks or trade names of well-known companies in their entirety is of itself an act of bad faith. It cites *Veuve Clicquot Ponsardin v. The Polygenix Group co.*, WIPO Case No. [D2000-0163](#); *Alstom v. Lizhi, Lizhi*, WIPO Case No. [D2020-2783](#); *ALSTOM v. Contact Privacy Inc. Customer 1244065242 / Michelle Chung, Chung Limited Co*, WIPO Case No. [D2019-2718](#); and *Alstom S.A. and General Electric Company v. Sichuan Electricity Transmission and Distribution Engineering* [DCO2016-0032](#) in support of its argument.

The Complainant’s second argument is that the Respondent used a privacy service to conceal its identity.

Its third point is that the Respondent did not respond to the emails from the Complainant’s attorneys on December 21, 2023.

No doubt with section 3.3 of the [WIPO Overview 3.0](#) in mind, the Complainant contends that the Respondent’s conduct when viewed as a whole amounts to “passive holding”.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1 in that it is the registered proprietor of, among others, the following trade mark:

Mark	Country	Number	Filing Date / Registration Date	Classes
ALSTOM	United Kingdom	00900948729	September 30, 1998 / August 8, 2001	6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42

The entirety of that mark is reproduced within the Disputed Domain Names. Accordingly, the Disputed Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 names. 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 names such as those enumerated in the Policy or otherwise.

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.

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 Names 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 trade mark, the Respondent’s failure to provide a response, and the composition of the Disputed Domain

Names, and finds that in the circumstances of this case the passive holding of the Disputed Domain Names does not prevent a finding of bad faith 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 Names <alstomgrouppty.com> and <alstompty.com> be transferred to the Complainant.

/Jane Lambert/

Jane Lambert

Sole Panelist

Date: April 4, 2024