

ADMINISTRATIVE PANEL DECISION

Alstom v. Rooney Hammond

Case No. D2024-0774

1. The Parties

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

The Respondent is Rooney Hammond, United Kingdom (“UK”).

2. The Domain Name and Registrar

The disputed domain name <alstom-grouppity.com> is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2024. On February 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 14, 2024.

The Center appointed Peter Wild as the sole panelist in this matter on March 19, 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. They are a global leader in the world of power generation, power transmission and rail infrastructure, employing 74,000 professionals in more than 70 countries, over 350 sites.

Between 2022 and 2023, the Complainant's order intake reached EUR 20,7 billion. The Complainant's sales reached EUR 16,5 billion. The Complainant is particularly present in the UK, and has been so for over a century. One third of all daily passenger rail journeys in the UK are on an ALSTOM train and half of the trains on the London Underground were made by the Complainant.

The Complainant also built the trains for the Eurostar between London, Paris and Brussels.

The Complainant holds trademark registrations comprising the word ALSTOM in numerous jurisdictions worldwide, including the following:

- UK Trademark Registration ALSTOM (script) No. UK00900948802, registered on June 6, 2002, for goods and services in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42;
- UK Trademark Registration ALSTOM (script) No. UK00900948729 ALSTOM, registered on August 8, 2001, for goods and services in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42;
- UK trademark Registration ALSTOM (script) No. UK00918020648 registered on August 28, 2019, for goods and services in classes 7, 9, 12, 37, 39, and 42;
- European Union Trademark Registration ALSTOM (word) No. 000948729 registered on August 8, 2001 and duly renewed, for goods and services in classes 6, 7, 9, 11, 12, 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 ("gTLDs" and "ccTLDs") with the element ALSTOM, such as:

- <alstom.com> registered since January 20, 1998; and
- <alstomgroup.com> registered since November 14, 2000.

The disputed domain name has been registered on December 13, 2023, and has been inactive since.

The Complainant sent a cease-and-desist letter to the Respondent on December 21, 2023, which remained without 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.

Notably, the Complainant contends that its trademarks ALSTOM are wholly and identically contained within the disputed domain name. Many UDRP decisions have considered the name ALSTOM as famous and/or well-known trademarks (in particular *ALSTOM v. Daniel Bailey*, WIPO Case No. [D2010-1150](#); *GENERAL ELECTRIC COMPANY v. Islam Gamal and Begad Negad*, WIPO Case No. [D2016-0553](#)).

The Complainant further alleges that the Respondent does not have rights or legitimate interests in respect of the disputed domain name under Paragraph 4(a)(ii), and that the disputed domain name was registered and used in bad faith, especially as the Complainant is using the almost identical domain name <alstomgroup.com> for all worldwide email accounts of its employees. Finally, the Complainant contends that the Respondent took measures to conceal his identity by using a fake address and phone number.

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.

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 entirety of the ALSTOM mark is reproduced within the disputed domain name. The only addition is the elements "-group" and "pty" which has no influence on the overall impression 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](#), sections 1.7 and 1.8.

Although the addition of other terms here, "-group" and "pty", may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [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 Respondent did not file any evidence that would establish legitimate rights, in particular it did not (i) use the disputed domain name (or demonstrable plans for such use) with a bona fide offering; (ii) was not commonly known by the disputed domain name; or (iii) claimed or showed legitimate noncommercial or fair use.

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.

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 (which was confirmed by previous Panels), and the composition of the disputed domain name which includes in addition to the Complainant’s trademark the terms “-group” and “pty” (which may stand for “party” or “proprietary”, a designation of a company form in some common law countries) that suggest sponsorship or endorsement by or affiliation with the Complainant, 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.

In addition, the Respondent used a fake address and phone number, trying to hide his or her true identity which is a further indication for bad faith.

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 <alstom-grouppty.com> be transferred to the Complainant.

/Peter Wild/

Peter Wild

Sole Panelist

Date: April 2, 2024