

ADMINISTRATIVE PANEL DECISION

Alstom v. mary buze
Case No. D2024-1511

1. The Parties

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

The Respondent is mary buze, United States of America.

2. The Domain Name and Registrar

The disputed domain name <alstosmgroup.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 10, 2024. On April 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 10, 2024, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 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 April 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 April 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 8, 2024.

The Center appointed Charles Gielen as the sole panelist in this matter on May 17, 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 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. They develop and market a complete range of systems, equipment, and services in the railway industry, and have activities in many countries around the world.

The Complainant holds a portfolio of registrations for trade marks, consisting of the word “Alstom” (in whole or with a figurative element) in several countries and regions in the world, including United States of America trade mark registration N° 85250501 registered on July 22, 2014, in classes 1, 6, 7, 8, 9, 11, 12, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45, as well as European Union Trade Mark No. 000948729 registered on August 8, 2001, in classes 1, 2, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42.

Since many years the Complainant and affiliated companies operate under domain names consisting of the term “alstom”, for example <alstomgroup.com> and <alstom.com>.

The disputed domain name was registered on February 26, 2024, and resolved to a parking page displaying pay-per-click (“PPC”) links to third party websites before the registration was suspended by the Registrar.

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 Complainant’s trade mark. The contested domain name results in the combination of the elements “alstom” (a clear misspelling of the name “alstom”) and “group” (which only refers to a group of companies). The addition of the letter “s” will barely be noticed by the public. According to the Complainant, the risk of confusion is all the more increased due to the fact that the trade mark ALSTOM is well known and reputed. In this regard, the Complainant refers to many WIPO UDRP panel decisions that have considered the trade mark ALSTOM as famous and/or well known (in particular *Alstom v. Daniel Bailey* WIPO Case No. [D2010-1150](#) and *General Electric Company v. Islam Gamal and Begad Negad*, WIPO Case No. [D2016-0553](#)). Another factor that will increase the likelihood of confusion is that the disputed domain name also consists of the element “group” which forms part of the most important domain name used by the Complainant in many of its companies’ domain names, namely the term “alstomgroup”.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not affiliated in any way with the Complainant and the Complainant has not authorized, licensed, or permitted the Respondent to register or use a domain name incorporating its trade mark. Furthermore, the Respondent has not applied for or obtained any trade mark registrations related to the term ALSTOM. The Respondent also is not commonly known under the name ALSTOM.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Complainant gives several reasons for this. First, the disputed domain name incontestably imitates the Complainant's trade mark and was acquired long after the trade mark ALSTOM became well-known. In view of the well-known character of ALSTOM, it is impossible that the Respondent was not aware of the Complainant's activities at the time it registered the disputed domain name. Second, the disputed domain name is not used in relation to a bona fide offering of goods or services. On the contrary, it simply reverted to a parking page before the disputed domain name was suspended by the Registrar. Third, the disputed domain name is a clear case of deliberate typo-squatting. Fourth, the Complainant contends that the Respondent attempted to conceal its identity by providing false contact details.

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 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the trade mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The only difference between the trade mark and the disputed domain name (leaving aside the generic Top-Level Domain ".com") is that the letter "s" has been added between the "o" and the "m". Also, the term "group" has been added to the term "alstosm" which appears to be a typo-squatted version of the trade mark ALSTOM. These differences are not sufficient to take away the confusing similarity between the trade mark and the disputed domain name. [WIPO Overview 3.0](#), sections 1.8 and 1.9.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

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 that 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.

First, the Respondent did not show that it owns any rights to the name "alstosmgroup" nor that it has any license from the Complainant to use its trade mark. Second, the Respondent did not argue that it is commonly known, or that it has ever been known under the name "alstosmgroup". Furthermore, the Panel did not find any evidence that the Respondent has used, or prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the disputed domain name redirected to a parking page with PPC links to third party websites. The use of the disputed domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's trade mark. [WIPO Overview 3.0](#), section 2.9.

The Panel therefore 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 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.

Noting the reputation and notoriety of ALSTOM trademark and the confusingly similar disputed domain name, the Panel finds that the Respondent should have been aware of the existence of Complainant and its trade mark at the time Respondent obtained the registration of the disputed domain name and as such registered the disputed domain name in bad faith. Further, the Respondent has demonstrated, by registering the disputed domain name to resolve to a website displaying PPC links where some links are competitive to the Complainant's business, an intent to capitalize on the goodwill of the Complainant's trademark.

The Panel therefore notes that the disputed domain name is being used in bad faith since the Respondent is trying to attract Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the disputed domain name's source, sponsorship, affiliation or endorsement, an activity clearly detrimental to the Complainant's business in accordance with paragraph 4(b)(iv) of the Policy.

Panels have found that the current 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 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 that the trade mark of the Complainant is distinctive and well-known and was already well-known long before the Respondent registered the disputed domain name. Also, the Panel finds that this is a clear case of typo-squatting because the added letter "s" in the disputed domain name will go unnoticed by Internet users and will be recognized as the trade mark of the Complainant especially noting the Complainant operates at <alstomgroup.com>. Therefore the Panel finds that in the circumstances of this case the prior use of the disputed domain name to resolve to a PPC page and the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The conclusion is that this 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 <alstosmgroup.com> be transferred to the Complainant.

/Charles Gielen/

Charles Gielen

Sole Panelist

Date: May 29, 2024