

ADMINISTRATIVE PANEL DECISION

Alstom v. Suresh
Case No. D2024-1872

1. The Parties

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

Respondent is Suresh, India.

2. The Domain Name and Registrar

The disputed domain name <alstomengineering.com> (the “Domain Name”) is registered with BigRock Solutions Pvt Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 3, 2024. On May 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 4, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on May 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 3, 2024. The Response was filed with the Center on May 29, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on June 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

A French company formed in 1928, Complainant describes itself as “a global leader in the world of transport infrastructures, employing over 80.000 professionals in more than 63 countries.” In 2022 and 2023, Complainant asserts, its “order intake” reached EUR 20.7 billion and its sales reached EUR 16.5 billion. Complainant operates worldwide and, Complainant states, “plays a significant role in the manufacture and overhaul of rolling stock.”

As respects Complainant’s presence in India (Respondent’s country), Complainant alleges:

“ALSTOM has been associated with India’s progress for over 100 years and is the leading multinational sustainable mobility provider in India. With 6 industrial sites and 2 engineering centers, Alstom has been at the forefront of introducing several breakthrough technologies in India with world class rolling stock, rail equipment & infrastructure, signaling and services. They also manufactured India’s most powerful electric locomotive. Today, ALSTOM employs 9 000 people and has been recognized as “Top Employer” for the third consecutive year in India.”

Complainant holds numerous trademark registrations around the world for the mark ALSTOM, including several registrations in India (Respondent’s country). Among others, Complainant holds the following registrations for the mark ALSTOM in India: Indian Reg. No. 1798988 registered on March 24, 2009 in classes 37, 39, 40, and 42; Indian Reg. No. 1806682 registered on April 15, 2009 in classes 09 and 12; Indian Reg. No. 1806681 registered on April 15, 2009 in class 09; Indian Reg. No. 819288 registered on September 15, 1998 in class 06. Complainant also holds International Reg. No. 1528691 for ALSTOM, registered on December 4, 2019 in classes 09, 12, 37, and 42, and designating India.

Several prior UDRP panels have recognized the ALSTOM mark as well-known.

Complainant’s main commercial website is located at the domain name <alstom.com>. Complainant holds various other domain names, such as <alstomengineer.com> and <alstomindia.com>.

The Domain Name was registered on April 10, 2024. The Domain Name does not resolve to a website. According to Complainant, the street address listed by Respondent in the Whois database is nonexistent, and the phone number used by Respondent in the Whois database matches the phone number associated with dozens of other domain names, including <sidhuindustries.com>, <rubbermantyre.com>, <uimtcollege.com>, <siwachsteels.com>, and <nirvanahairsalonandspa.com>, which, according to Complainant, reflect the firm names or trademarks of various third-party businesses.

Complainant sent Respondent a cease-and-desist letter on April 17, 2024, asserting its rights in the mark ALSTOM and stating that “Alstom” is not a surname or a first name and does not refer to anything but Complainant’s goods and services. Respondent did not reply to this missive.

By way of a Response, Respondent sent an email to the Center, purportedly signed by “PFA Alstom Documents” above a signature block for “Alstom Engineering India Pvt Ltd,” and stating as follows:

“We are writing to provide you with the following legal documents that require your attention and action. Please find the attached files and review them promptly. Should you have any questions, or concerns, or need further clarification regarding these documents, please do not hesitate to contact our team.”

No other commentary was provided in this Response. Annexed to this Response are five documents purporting to confirm the legal status of a firm called “Alstom Engineering India Private Limited” (“AEIPL”) There is nothing in the documents to link AEIPL with Respondent, and Respondent does not assert that he has any connection with AEIPL. It is unknown from the record whether AEIPL, assuming it is an actual entity (which assumption the Panel is prepared to make for purposes of this proceeding) has any relationship to Complainant.

Apart from the above-quoted email from Respondent and the five annexes attached thereto, Respondent does not offer any explanation of its business or its purpose for registering the Domain Name on April 10, 2024. Also, Respondent does not dispute that the physical address he used in the Whois database is nonexistent, or that the telephone number he used in the Whois database is identical to the phone number associated with various other domain names which resemble third-party trademarks.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

The entirety of Respondent's apparent position in this case is reflected above in the "Factual Background" section.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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 Complainant's trademark and the Domain Names. [WIPO Overview 3.0](#), section 1.7.

The Panel concludes that Complainant has rights in the trademark ALSTOM through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the ALSTOM mark and adds the word "engineering." The Panel concludes that the mark remains clearly recognizable within the Domain Name despite this additional word.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or

- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the respondent fails to come forward with such relevant evidence, the complainant is deemed to have domain name (although the burden of proof always remains on the complainant). If the satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent did not reply to Complainant’s cease-and-desist letter to assert his bona fides. Moreover, on this record, it is undisputed that Respondent used a nonexistent physical address in his registration of the Domain Name. It is also plausibly alleged, and again undisputed, that Respondent is associated with several other domain names that reflect the trademarks of various third parties. The Panel also finds that Complainant’s ALSTOM mark is long-established and well-known, and Complainant’s presence in India is sufficiently robust that it is reasonable to conclude that Respondent was aware of Complainant’s renowned and inherently distinctive mark when registering the Domain Name; the combination therein of the mark plus a term in its industry puts this question moreover squarely to rest.

Finally, with respect to the documents annexed to Respondent’s Response, which concern the apparent entity AEIPL, Respondent made no effort to assert an association between him and AEIPL. The annexed documents themselves reflect no such link with Respondent. This leads the Panel to conclude that, more likely than not, Respondent found some official documents pertaining to AEIPL and included them in the record here to create the false impression that Respondent is somehow associated with AEIPL (and hence has some kind of legitimate interest in the Domain Name).

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. On this record, the Panel finds that Respondent targeted Complainant’s mark when registering the Domain Name, and, according to the undisputed record presented, did so as part of a pattern of preclusive registrations, in violation of the above-quoted Policy paragraph 4(b)(ii).

Complainant has established 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 Domain Name <alstomengineering.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: June 25, 2024