

ADMINISTRATIVE PANEL DECISION

Alstom v. Sunny Farouk, Fasun IT Group
Case No. D2024-1875

1. The Parties

The Complainant is Alstom represented by Lynde & Associates, France (the “Complainant”).

The Respondent is Sunny Farouk, Fasun IT Group, United States of America (the “Respondent”).

2. The Domain Name and Registrar

The Disputed Domain Name <alstmgroup.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 May 3, 2024. On May 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 3, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 13, 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 May 16, 2024.

The Center verified that 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 May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2024.

The Center appointed Ike Ehiribe as the sole panelist in this matter on June 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 French company incorporated with the French Trade and Companies Register of Nanterre under number B389058447. The Complainant is described as a global leader in power generation, power transmission and rail infrastructure employing 80000 professionals in more than 63 countries over 250 sites. In the years 2022 and 2023, the Complainant's order intake amounted to 20.7 billion Euros and its sales amounted to 16.5 billion Euros. The Complainant develops and markets a complete range of systems equipment, and services in the railway industry and has activities in countries such as USA, Canada and in the European Union etc.

The Complainant is the owner of numerous trademark registrations comprising the word "ALSTOM" in many jurisdictions including but not limited to; (1) US Trademark No. 75565686 registered on November 2, 2004 in classes 1, 6, 7, 9, 11, 12, 13, 16, 17, 19, 21, 24, 35, 36, 37, 38, 39, 40, 41, and 42; (2) International Registration No. 706292 registered on August 28, 1998 in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42; and (3) French TM No. 98727762 registered on May 15, 1998 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 country code and generic TLDs that reflect the ALSTOM trademark such as <alstomgroup.com> registered since November 14, 2000 amongst numerous other domain names.

The Respondent in this administrative proceedings is Sunny Farouk, Fasun IT Group. According to the Whois record, the Disputed Domain Name <alstmgroup.com> was registered on April 3, 2024. The Disputed Domain Name resolves to a parking page.

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 consists mainly of the Complainant's ALSTOM trademark regardless of the omission of the letter "O" and the addition of the word "Group" and the suffix ".com." The Complainant contends that the omission of the letter "O" and the addition of the other elements namely the word "Group" and the suffix ".com" do not prevent a finding of confusing similarity. The Complainant further submits that the term "ALSTM" will be perceived as a misspelling of the Complainant's ALSTOM trademark. While the omission of the letter "O" would likely go unnoticed by Internet users.

The Complainant submits that many previous WIPO UDRP decisions have considered the trademark ALSTOM as famous and well-known. See in particular *ALSTOM v. Daniel Bailey* WIPO Case No. [D2010-1150](#); see also *Alstom S.A. and General Electric Company v. Sichuan Electricity Transmission and Distribution Engineering*, WIPO Case No. DCO 2016-0032 where the panel held: "in determining whether a domain name is identical or confusingly similar to complainant's mark UDRP panels have typically disregarded the generic Top-Level Domain ("gTLD") or the ccTLD".

Furthermore, the Complainant submits that the Disputed Domain Name differs by one letter from the Complainant's <alstomgroup.com> domain name which was registered in the year 2000 and is used to support the email addresses of all employees of the ALSTOM group of companies. Therefore, it is submitted that the Disputed Domain Name is undeniably confusingly similar to the Complainant's ALSTOM trademark as this is a clear case of typosquatting.

The Complainant further submits that the Respondent could have replied to the email sent by the Complainant to prove its rights or legitimate interests in the Disputed Domain Name following paragraph 4 (a)(ii) but failed to do so. Furthermore, the Complainant therefore asserts that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name as the Respondent is not in any way

affiliated to the Complainant's trademark or its group of companies. The Complainant has not authorised, licensed, or permitted the Respondent to register or use a domain name incorporating their trademark. The Respondent it is said has not applied for or obtained any trademark registration related to the ALSTOM trademark and neither is the Respondent commonly known by this name.

On the question of bad faith registration and use, the Complainant advances a number of factors which indicate that the Respondent created the Disputed Domain Name in bad faith and has continued to engage in bad faith use. First of all, the Complainant asserts that it is virtually impossible for the Respondent not to have known of the Complainant's activities prior to registering the Disputed Domain Name, therefore the Complainant submits that the registration of a well-known trademark of which the Respondent must reasonably be aware of constitutes bad faith following *Veuve Clicquot Ponsardin v. The Polygenic Group.*, WIPO Case No. [D2000-0163](#). Secondly, the Complainant alludes to the failure of the Respondent to reply to the Complainant's cease and desist letter in order to advance any rights the Respondent may have in the Disputed Domain Name. Thirdly, the Disputed Domain Name is not being used in relation to a bona fide offering of goods and services, instead the Disputed Domain Name resolves to a parking page. Fourthly, the Respondent registered the Disputed Domain Name through a privacy company and has provided a telephone number that appears to be false, as the area code provided it is said corresponds to Ohio and not Texas where the Respondent states it is based. In addition, it is said a Google search for the Respondent's organisation name "Fasun IT Group" did not yield any results.

B. Respondent

The Respondent did not reply to the Complainant's contentions, and therefore the Panel shall draw such adverse inferences from the Respondent's failure to respond as may be deemed appropriate.

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 mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical and or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the mark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical and or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and section 1.9 on misspellings.

Although the addition of other terms such as "GROUP" may bear on assessment of the second and third elements, the Panel finds the addition of such 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 the 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 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.

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.

The Panel notes that the Disputed Domain Name was previously directed to the Registrar’s parking page, and currently is inactive. 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the Disputed Domain Name, 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. The Panel further finds that in the circumstances of this case, the previous use of the Disputed Domain Name was also in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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 <alstmgroup.com> be transferred to the Complainant.

/Ike Ehiribe/

Ike Ehiribe

Sole Panelist

Date: July 9, 2024