

ADMINISTRATIVE PANEL DECISION

Alstom v. Madisbar SL, Antonio Javier Marin Atienza
Case No. D2024-2705

1. The Parties

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

The Respondent is Madisbar SL, Antonio Javier Marin Atienza, Spain.

2. The Domain Name and Registrar

The disputed domain name <alstom.one> (the “Domain Name”) is registered with Dynadot Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed Domain Name. On July 4, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 July 5, 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 July 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2024. Aside from informal communication on July 4 and 5, 2024, the Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on July 29, 2024. The Respondent sent an email communication to the Center on July 29, 2024.

The Center appointed Ana María Pacón as the sole panelist in this matter on August 2, 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

Alstom is a French company created in 1928. It is a global leader in the world of transport infrastructures, employing over 80.000 professionals in more than 63 countries, including Spain. From high-speed trains, metros, monorails, trams, to turnkey systems, services, infrastructure, signalling and digital mobility. Alstom offers its customers a broad portfolio in the industry. The company focuses its design, innovation, and project management skills to where mobility solutions are needed most.

Relevant to these proceedings, the Complainant has registered the trademark ALSTOM worldwide, including:

- International Registration No. 706360 for ALSTOM and logo, registered on August 28, 1998, for products and services in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.
- International Registration No. 706292 for ALSTOM and logo, registered on August 28, 1998, for products and services in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.
- European Union Trademark Registration No. 948729 for ALSTOM, filed on September 30, 1998, for products and services in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, 42.
- European Union Trademark Registration No. 948802 for ALSTOM and logo, filed on September 30, 1998, for products and services in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.
- European Union Trademark Registration No. 18020648 for ALSTOM and logo, filed on February 28, 2019, for goods and services in classes 7, 9, 12, 37, 39 and 42;
- European Union Trademark Registration No. 18085525 for ALSTOM and logo, filed on June 24, 2019, for goods and services in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.

Alstom is also the registrant of numerous domain names under various generic and country code TLDs that comprise its trademark, such as:

- <alstom.com> registered since January 20, 1998.
- <alstom.net> registered since April 1, 2000.
- <alstom.info> registered since July 31, 2001.
- <alstom.org> registered since April 1, 2000.
- <alstom.biz> registered since November 15, 2001.
- <alstom.vip> registered since May 17, 2016.

The disputed Domain Name was registered on June 13, 2024. Since the registration date, the disputed Domain Name has reverted to a parking page with pay-per-click ("PPC") links referring to different sectors of activity, close to those of ALSTOM.

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 argues that the disputed Domain Name contains the Complainant's ALSTOM trademark in its entirety, thereby satisfying Paragraph 4(a)(i). According to several UDRP panels, the complete reproduction of a trademark in a domain name is sufficient to establish confusing similarity. In addition, its trademark is widely well-known and registered worldwide.

Furthermore, the Complainant contends that although the Respondent could have demonstrated his rights or legitimate interests in the disputed Domain Name by replying to the emails sent to him, he failed to do so. The Respondent was not commonly known by the disputed Domain Name prior to its adoption and use by the Complainant. On the contrary, neither the Respondent's name (Antonio Javier Marin Atienza) nor his organization (Madisbar SL) include the name Alstom or is linked in any way to Alstom. Moreover, the Respondent does not have any affiliation, association, sponsorship, or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or any subsidiary or affiliated company to register and use the disputed Domain Name.

Under Paragraph 4(a)(iii), the Complainant contends that the Respondent has registered and is using the disputed Domain Name in bad faith. Given the well-known character and reputation of the ALSTOM mark, the Respondent must have known of its existence when registering the disputed Domain Name. In addition, the Respondent registered the disputed Domain Name with the intention of creating a parking page with sponsored PPC links to take advantage of internet users seeking ALSTOM products and services. Furthermore, the Respondent has attempted to conceal his identity by registering the disputed Domain Name via an anonymization company. Finally, in the exchanges between the Complainant and the Respondent, the Respondent indicated that they would not transfer the disputed Domain Name to Alstom without monetary compensation.

The Complainant requests the transfer of the disputed Domain Name.

Further, on July 4, 2024, the Complainant requested that the Respondent sign a settlement form by July 5, 2024, to amicably transfer the disputed Domain Name. In the absence of a response, the Complainant indicated it would proceed with UDRP proceedings.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions, but sent informal communications on July 4, 5, and 29, 2024. In these communications, the Respondent improperly informed the Complainant that the disputed Domain Name had been suspended and insisted that it could not be transferred until two months had passed. The Respondent stated that he would not transfer the disputed Domain Name unless reimbursed for registration fees. The Respondent also dismissed any threats, reaffirming that the transfer would only occur after two months and that he would not sign any settlement agreement. Finally, the Respondent indicated that the transfer of the disputed Domain Name could be requested after August 12, 2024.

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 to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

As is generally accepted, the addition of a generic Top-Level Domain (“gTLD”) such as “.one” is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 case and has not provided any relevant evidence demonstrating rights or legitimate interests in the disputed Domain Name, as enumerated in the Policy or otherwise, despite having had an exchange of communications with the Complainant.

Applying UDRP paragraph 4(c), UDRP panels have held that the use of a 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 mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9. See, among others, *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#).

Moreover, the nature of the disputed Domain Name carries a risk of implied affiliation as it wholly incorporates the Complainant’s trademark and can be considered a variation of the Complainant’s domain name <alstom.com>.

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.

In the present case, the Panel notes that the Complainant has substantiated the fact that its trademark ALSTOM, which has been registered and used, now benefits from public awareness worldwide. A number of UDRP panels have arrived at a finding that registering a domain name with knowledge of another company’s rights in a domain name, and with intention to divert traffic, may serve as evidence of bad faith registration (see *Digital Spy Limited v. Moniker Privacy Services and Express Corporation*, WIPO Case No. [D2007-0160](#); *PepsiCo, Inc. v. “null”, aka Alexander Zhavoronkov*, WIPO Case No. [D2002-0562](#); and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)). This Panel finds it implausible that the

registration of the disputed Domain Name took place in good faith, particularly given that the Complainant owns and uses the nearly identical domain name <alstom.com>, from which the disputed Domain Name differs only by the gTLD and that the Respondent's name and organization differ from the trademark ALSTOM.

Thus, the Panel finds, on the evidence available to it, that the Respondent had knowledge of the ALSTOM trademark when it registered the disputed Domain Name.

Furthermore, using the disputed Domain Name to host a PPC parking page the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice. Previous UDRP decisions have considered this type of use of a domain name sufficient to demonstrate bad faith. [WIPO Overview 3.0](#), section 3.5. For reference on the subject, see *Serta Inc. v. Charles Dawson*, WIPO Case No. [D2008-1474](#); see also *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#).

Using a domain name to intentionally attract Internet users to a website for commercial gain, in an effort to trade on the Complainant's goodwill, is evidence of bad faith registration and use under the Policy (see *Adobe Systems Incorporated v. Domain OZ*, WIPO Case No. [D2000-0057](#)). The Panel is of the opinion that the Respondent deliberately registered the disputed Domain Name with the intent to divert Internet users from the Complainant's website to the Respondent's PPC parking page, and this constitutes bad faith registration and use.

Finally, it is documented that the Respondent sought to conceal its true identity by using an identity-shielding service. In the Panel's view, this further corroborates the finding that the Respondent acted in bad faith. See *Philip Morris USA Inc. v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Andrejs B Pauls*, WIPO Case No. [D2017-0474](#).

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.one> be transferred to the Complainant.

/Ana María Pacón/

Ana María Pacón

Sole Panelist

Date: August 16, 2024