

ADMINISTRATIVE PANEL DECISION

Alstom v. Kofi Adomako Akuamoah Boateng
Case No. D2024-3623

1. The Parties

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

The Respondent is Kofi Adomako Akuamoah Boateng, Ghana.

2. The Domain Name and Registrar

The disputed domain name <alstomsolutions.link> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 9, 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 (“REDACTED FOR PRIVACY”) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 9, 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 September 13, 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 September 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 8, 2024.

The Center appointed Alan L. Limbury as the sole panelist in this matter on October 14, 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

Established in 1928, the Complainant, a French company, is a global leader in the world of transport infrastructures, employing 34,000 professionals in more than 60 countries, including Ghana. Between April 1, 2023 and September 30, 2023, the Complainant's order intake reached EUR 8.4 billion. The Complainant has been active in Africa for 80 years and has numerous hydroelectric projects to its credit across the continent. In particular, the Complainant has supplied Africa main hydropower plants in Ghana. In 2007, the Complainant won a 48 million Euros contract to supply gas turbines near Tema, in south-east Ghana.

The Complainant owns numerous ALSTOM trademark registrations around the world, including:

- ALSTOM (word mark), International Reg. No. 706292 and ALSTOM (figurative mark), Reg. No. 706360, both registered on August 28, 1998, designating various jurisdictions including Ghana, for goods 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;

- ALSTOM (word mark), European Union registration No. 948729, 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.

The Complainant is also the owner the domain names <alstom.com>, registered on January 20, 1998, and <alstomgrou.com>, registered on November 14, 2000.

On July 22, 2024, the Complainant sent a trademark claim to the Registrar, asserting its prior rights to the trademark ALSTOM and requesting disclosure of the Registrant's identity and contact details and suspension of the disputed domain name and any related websites and email addresses. This was followed by a reminder on July 29, 2024. The Complainant did not receive any response.

The disputed domain name was registered on July 11, 2024. It initially resolved to a website which invited Internet users to register and login in order to access any website content. It does not presently resolve to an active website.

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 its ALSTOM mark and that the Respondent has no rights or legitimate interests in respect of the disputed domain name, which was registered and is being used in bad faith.

As to legitimacy, the Complainant contends that there has never been any relationship between the Complainant and the Respondent that would give rise to any licence, sponsorship, permission or authorization for the Respondent to use or register the disputed domain name, nor to use the ALSTOM mark for any purpose. The Respondent is not commonly known by the disputed domain name and cannot provide any evidence of legitimate noncommercial or fair use. The disputed domain name initially resolved to a webpage unavailable to the public at large since it was necessary to create an account to potentially have access to the website. This kind of stratagem is often use by cybersquatters to capture personal data, notably payment information. Therefore, the Respondent has not made use or prepared to use the disputed

domain name in connection with a bona fide offering of goods or services. Quite the contrary, the Respondent's actions are made in violation of the Complainant's rights and are very detrimental.

As to bad faith, in view of the well-known character of the name ALSTOM, it is virtually impossible that the Respondent was not aware of the Complainant's activities when he registered the disputed domain name in the name "REDACTED FOR PRIVACY". Once the Center informed the Complainant that the Respondent is Kofi Adomako Akuamoah Boateng, with the address in GHANA, the Complainant ascertained that the address provided is false: there is no street name; the postal codes provided do not exist in Ghana; a search on Google Maps shows that the Respondent's address does not exist; and the phone number seems doubtful, since Ghana's dialing code is +233, followed by 51 for a phone number of the area of Kumasi. Moreover, theoretically, all phone numbers start whether with a dialing code (+233 for Ghana) or with the initial number 0 (not directly with the number 5, as indicated by the Respondent).

Hence the disputed domain name has no substance at all and its only goal is to impinge upon the Complainant's legal rights.

The registration and use of the disputed domain name take unfair advantage of the ALSTOM mark's significant reputation and may result in confusion as to who owns and operates the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the 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.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), at section 4.3.

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 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 ALSTOM word mark is reproduced in its entirety within the disputed domain name, which differs from the mark only by the addition of the word “solutions”, which does nothing to distinguish the disputed domain name from the mark, although it may bear on assessment of the second and third elements. The inconsequential “.link” generic Top-Level Domain (“gTLD”) may be ignored. 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.

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 a 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.

As noted, the disputed domain name was registered on July 11, 2024. It initially resolved to a website which invited Internet users to register and login in order to access any website content and it does not presently resolve to an active website.

The Complainant asserts that the Respondent is not affiliated to any way with the Complainant; that the Complainant never authorized a third party to register a domain name composed of the mark ALSTOM or the denomination Alstom Solutions and, to the best of the Complainant’s knowledge, the Respondent did not apply for or obtain any trademark registrations related to the signs Alstom or Alstom Solutions and is not commonly known under these signs.

There is no evidence that the Respondent has used or prepared to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; nor that the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name; nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Panel finds the second element of the Policy has been established.

C. Registered and Used 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 disputed domain name initially resolved to a website which invited Internet users to register and login in order to access any website content and it apparently changed to an inactive website after the Complainant's letter to the Registrar. Panels have found that the non-use of a domain name 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 and reputation of the Complainant's trademark and the composition of the disputed domain name clearly targeting the Complainant's ALSTOM trademark 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. As in the leading case of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), there is no conceivable active use that could be made of the disputed domain name that would not amount to an infringement of the Complainant's rights in its distinctive mark. Accordingly, the Panel finds that the Respondent's current passive use of the disputed domain name demonstrates registration and use in 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 <alstomsolutions.link> be transferred to the Complainant.

/Alan L. Limbury/

Alan L. Limbury

Sole Panelist

Date: October 28, 2024