

ADMINISTRATIVE PANEL DECISION

ALSTOM v. Holland Broadbridge, morgan sarah
Case No. DCO2022-0084

1. The Parties

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

The Respondent is Holland Broadbridge, morgan sarah, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <alstom-brokerage.co> 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 29, 2022. On September 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 30, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 2022 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 October 7, 2022.

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 October 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2022. The Respondent sent an informal email to the Center on October 11, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on November 11, 2022. 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 leader in transport infrastructures and was created in 1928. It owns trademark registrations for ALSTOM such as:

- Canadian trademark registration No.0891929 for ALSTOM registered on May 23, 2002
- International trademark registration No. 706292 for ALSTOM registered on August 28, 1998.

The disputed domain name was registered on May 26, 2022 and directs to a website which appears to offer brokerage services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name incorporates the Complainant's trademarks ALSTOM in its entirety. The use of the term "brokerage", which is descriptive of the services offered will lead Internet users to believe that the disputed domain name offers the Complainant's brokerage activities. Particularly, in light of the fact that ALSTOM has been found to be well-known. Further, when a disputed domain name incorporates a trademark in its entirety, it will be normally considered confusingly similar. The country code Top-Level Domain ("ccTLD") ".co" only indicates registration of the domain name in the ".co" ccTLD.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant never authorized the Respondent to use its trademark. To the Complainant's knowledge, the Respondent is not commonly known by the disputed domain name. A false certificate of incorporation appears on the website, which indicates the fraudulent use. A letter was sent by the Complainant to the Respondent at the email address mentioned on the website to which the disputed domain name resolves but no answer was received. There is no use or preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant contends that the disputed domain name is registered and is being used in bad faith. The Complainant's trademark is well-known and the Respondent must have been aware of the Complainant's trademark, which had become well-known before the registration of the disputed domain name. The Respondent chose to hide its identity. The Respondent's details are most likely false as the information appearing on the website is linked to different places/countries. Lastly, no response was received to the letter sent by the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, on October 11, 2022, the Respondent sent the following communication: "I don't understand what this complaint is about. The domain name in question is no longer valid. Check it again".

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for ALSTOM. The Panel is satisfied that the Complainant has established its ownership of the trademark ALSTOM.

The disputed domain name incorporates the Complainant's trademark ALSTOM in its entirety. It is established by prior UDRP panels that when a domain name incorporates a complainant's registered

trademark, such incorporation is sufficient to establish identity or confusing similarity for the purposes of the Policy (*Delta Dental Plans Association v. Fundacion Private Whois / PPA Media Services*, WIPO Case No. [D2012-1440](#)).

The term “brokerage” does not prevent the fact that the disputed domain name is confusingly similar to the Complainant’s trademark. The ccTLD “.co” should typically be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. The Complainant further asserts that the Respondent is not using the disputed domain name for a *bona fide* offering of goods and the Respondent is not commonly known by the disputed domain name. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The absence of a substantive response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant’s *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name unrebutted.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

There are many indications that the disputed domain name is registered and is being used in bad faith. The Respondent must have been aware of the Complainant’s trademark as the Complainant’s trademark is well-known and had been registered for more than two decades when the disputed domain name was created. It has been found by prior UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). Additionally, it appears on the basis of the exhibits submitted by the Complainant that false incorporation information is provided as well as inconsistent information about the Respondent’s place of incorporation.

The website at the disputed domain name appears to offer brokerage services. Such conduct falls squarely within the meaning of paragraph 4(b)(iv) of the Policy, and accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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-brokerage.co> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: November 25, 2022