

ADMINISTRATIVE PANEL DECISION

Alstom v. Mehdad Maolapnaeh
Case No. D2022-0656

1. The Parties

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

The Respondent is Mehdad Maolapnaeh, Denmark.

2. The Domain Name and Registrar

The disputed domain name <alstomsa.net> is registered with CSL Computer Service Langenbach GmbH dba Joker.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2022. On February 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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 March 14, 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 March 15, 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 March 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 20, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on April 29, 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 the registered owner of trademarks in several jurisdictions for the term ALSTOM, e.g., European Union Trade Mark no. 00948729 ALSTOM (word), registered on August 8, 2001 for goods and services in the classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42. This trademark has been duly renewed and is in force.

It results from the evidence provided by the Complainant that the disputed domain name, registered on February 2, 2022, redirected to the Complainant's home page "www.alstom.com".

5. Parties' Contentions

A. Complainant

It results from the Complainant's undisputed allegations that it is a French company created in 1928, which is a global leader in the fields of power generation, power transmission, and rail infrastructure, employing circa 36,000 professionals in more than 60 countries. It develops and markets a complete range of systems, equipment, and services in the railway industry, and has activities around the world, and all over Europe. In particular, in Denmark, where the Respondent is located, the Complainant has been present for over 20 years, selling over 500 regional trains and world class signaling solutions. In France it is a major partner of agglomerations, French regions and operators such as SNCF and RATP, providing railway vehicles and systems for the nationwide rail network (SNCF), as well as for metros in cities such as Paris and Lyon. It also developed and provided vehicles and systems for the Eurostar between France and the UK. On top of rail vehicles, it also developed and provided electric buses (APTIS buses) to numerous cities.

The Complainant contends that its trademark and denomination ALSTOM is well-known worldwide.

The Complainant uses the domain name <alstom.com>, registered on January 20, 1998, in order to promote its products and services. In addition, the Complainant owns other domain names containing the mark ALSTOM, for instance <alstom.net> and <alstomsa.com>, which all redirect to the website "www.alstom.com".

According to the Complainant's uncontested allegations, on February 21, 2022 it sent a claim to the Registrar and requested: "to cut off access to all content accessible at the URL 'www.alstomsa.net'; to suspend all functions related to the disputed domain name (namely email to try and prevent any credulous activities); to provide with the Registrant's contact information in order to attempt to settle the matter amicably". The Registrar replied confirming that the domain name had been suspended. The Complainant also addressed a claim to the Respondent, on February 21, 2022, via the contact platform provided in the Whois extract, requesting to immediately cease all use of this domain, cut off all content accessible at the URL "www.alstomsa.net", and transfer the domain name to the Complainant. No response was received.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's earlier trademark, since it wholly and identically reproduces the well-known prior mark ALSTOM of the Complainant with the additional term "sa", which will simply be perceived as the usual abbreviation of the legal form of the Complainant, a French "Société Anonyme", commonly referred to as a "SA".

The Complainants further contend that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Respondent is not affiliated in any way to ALSTOM. The Complainant has not authorized, licensed, or permitted the Respondent to register or use a domain name incorporating its trademarks or to create a company comprising this name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the Respondent's bad faith should be established for the following reasons: the disputed domain name incontestably imitates the Complainant's trademarks, and was acquired long after ALSTOM's marks became well-known; the disputed domain name reverted to ALSTOM's web page, necessarily creating a risk of confusion; the Respondent remained silent and did not reply to the Complaint; the Respondent attempts by any means to conceal his identity, namely by registering the disputed domain name via an anonymization company. Moreover, the contact information provided appears questionable.

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 and 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 a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

It results from the evidence provided, that the Complainant is the registered owner of trademarks consisting of or containing the term ALSTOM. Reference is made in particular to European Union Trade Mark no. 00948729 ALSTOM (word), registered on August 08, 2001 for goods and services in the classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42. This trademark has been duly renewed and is in force.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.7).

This Panel shares this view and notes that the Complainant's registered trademark ALSTOM is fully included in the disputed domain name, followed by the term "sa". Furthermore, it is the view of this Panel that the addition of the term "sa" in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain ("gTLD") ".net" of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did not authorize the Respondent's use of its trademarks containing the term ALSTOM or the registration of the disputed domain name. As such, the redirection of the confusingly similar disputed domain name to the Complainant's web page constitutes neither a *bona fide* offering of goods or services, nor a legitimate fair use.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name contains the Complainant's registered and well-known trademark ALSTOM, and that the trademark ALSTOM is not a term that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. The Panel finds it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainant's reputation by registering a domain name fully containing the Complainant's trademark and trade name with the intent to attract Internet users for commercial gain (see *e.g.*, *Carrefour SA v. Matias Barro Mares*, WIPO Case No. [D2020-3088](#); *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *KOC Holding A.S. v. VistaPrint Technologies Ltd*, WIPO Case No. [D2015-0886](#); and *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#)).

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainants have therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

Based on the evidence submitted by the Complainant, the Panel shares the view of other UDRP panels and finds that the Complainant's trademark ALSTOM is well-known (see *e.g.* *ALSTOM v. Daniel Bailey (Registrant I D: tuuROSvPJbZdd2XO)*, WIPO Case No. [D2010-1150](#)). Therefore, this Panel has no doubt that the Respondent knew or should have known that the disputed domain name consisted of the Complainant's trademark when he registered the disputed domain name. Registration of the disputed domain name in awareness of the reputed ALSTOM mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith (see *e.g.* *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#)).

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith, including (1) the nature of the domain name, *i.e.* incorporating the Complainant's mark ALSTOM plus the additional descriptive term "sa"; (2) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the domain name; (3) other *indicia* generally suggesting that the Respondent has targeted the Complainant, *e.g.* redirecting the disputed domain name to the Complainant's web page; and (4) the Respondent did not provide any response with a plausible explanation of its behavior or good faith use (see *e.g.* [WIPO Overview 3.0](#) at section 3.2.1).

Consequently, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy. The Complainants are therefore deemed to also have satisfied the third element, 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 <alstomsa.net> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: May 13, 2022