

ADMINISTRATIVE PANEL DECISION

Alstom v. ben wang, wang ben
Case No. D2022-0756

1. The Parties

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

The Respondent is ben wang, wang ben, China.

2. The Domain Name and Registrar

The disputed domain name <ce-alstom-ornans.com> (the “Domain Name”) is registered with CNOBIN Information Technology Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2022. On March 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 7, 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 10, 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 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on April 12, 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, founded in 1928, is a French multinational company operating worldwide, including in China (the Respondent's territory), under the ALSTOM mark in the transport infrastructure industry. It employs over 34,000 people in more than 60 countries. The Complainant's mark has been recognised as well known in many prior UDRP cases.

The Complainant's mark was registered in numerous jurisdictions from as early as 1998, including International Registration No. 706292 for the mark ALSTOM, registered on August 28, 1998 designating, amongst others, China. The Complainant owns numerous domain names that reflect the ALSTOM mark, including <alstom.com>, registered January 20, 1998.

The Domain Name was registered on December 24, 2021. The Domain Name previously resolved to an inactive website and then to a website indicating "Vous n'êtes pas autorisé à consulter cette page" (which could be translated as "You don't have authorization to view this page".) The Panel has independently established that the Domain Name is geo-restricted and resolves to a Chinese lottery website when accessed from an Internet Protocol ("IP") address located within China.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ALSTOM mark, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and is being used in bad faith given that the Domain Name is likely to be taken as referring to the Complainant's works council in the city of Ornans, and its mark is so well known that it is inconceivable that the Respondent was not aware of the Complainant at the time of registering the Domain Name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Where the mark is recognisable in the domain name, the addition of other terms does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) at section 1.8). The Complainant's mark is clearly recognisable within the Domain Name despite the addition of "ce" and "ornans" given its clear delineation by hyphens. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its mark was registered and well known long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark, the Respondent did not file a Response and the Complainant has certified that the Domain Name is unauthorised by it.

The ALSTOM mark is well known, highly specific to the Complainant and has no semantic value which the Respondent might, in good faith, have sought to adopt. The Domain Name was previously inactive, and now

is used for a Chinese lottery website (although geo-restricted). Thus, the composition of the Domain Name is entirely incongruous with the content of the website to which it resolves. Without any explanation as to why there could be any legitimate reason to register the Domain Name, it is likely that it was registered to take unfair advantage of the reputation of the Complainant's mark (*Boursorama S.A. v. Pencreach Jacques*, WIPO Case No. [D2021-1195](#)). This cannot represent a *bona fide* offering of goods or services nor conferring rights or legitimate interests to the Respondent for purposes of paragraph 4(c)(i) of the Policy (*Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#)). There is no evidence that any of the other circumstances set out in paragraph 4(c) of the Policy pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a well-known mark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

The Complainant has been present in the Respondent's country, China, for almost 60 years. The Complainant has a presence in the city of Ornans, and the composition of the Domain Name suggests that it relates to the Complainant's works council in Ornans ("ce" is an abbreviation of "Comité d'Entreprise", which means "works council" in English). The Respondent has registered many domain names and appears to be a savvy, professional domainer. These factors, in combination with those discussed above, indicate: a) that the Respondent either knew or should have known that the Domain Name was confusingly similar to the Complainant's mark ([WIPO Overview 3.0](#) at section 3.2.2); and b) that the Domain Name was registered and is being used for a Chinese lottery website to intentionally direct traffic to the Respondent's website by creating a likelihood of confusion with the Complainant, in line with paragraph 4(b)(iv) of the Policy. Although the Domain Name was previously inactive, and access to the Domain Name is geo-restricted, it would not change the Panel's findings of the Respondent's bad faith in registering and using the Domain Name.

A prior UDRP panel has ruled in favour of the Complainant in a case involving a similarly composed domain name and *modus operandi*. See *Alstom v. Lizhi, Lizhi*, WIPO Case No. [D2020-2783](#), involving the domain name <cealstomlecreusot.net>.

The Panel also draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

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 Domain Name, <ce-alstom-ornans.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: April 26, 2022