

ADMINISTRATIVE PANEL DECISION

ALSTOM v. Super Privacy Service LTD c/o Dynadot / yekta kemal
Case No. D2022-0793

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot / yekta kemal, Turkey.

2. The Domain Name and Registrar

The disputed domain name <alstomcoradia.com> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2022. On March 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 9, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 Willem J. H. Leppink as the sole panelist in this matter on April 8, 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 French limited company, headquartered in Saint-Ouen, that develops systems, equipment and services in the railway industry. The company was founded in 1928 and currently employs 36,000 professionals. Moreover, the company operates in over sixty jurisdictions, *inter alia*, the United States, European Union, and Turkey. The group of companies to which the Complainant belongs has been active in Turkey since the 1950's.

The Complainant is the owner of several trademark registrations, including, but not limited to the European Union trademark ALSTOM (word), with registration no. 000948729 and with a registration date of August 8, 2001, for goods and services in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, 42 and the Turkish trademark ALSTOM (word), with registration no. 98-014091 and with a registration date of June 12, 2000, for goods in classes 9 and 12 (together in singular also referred to as the "ALSTOM Trademark").

In addition to this, the Complainant is also owner of the International Registration for the trademark, CORADIA (word/device), with registration no. 722311 and with registration date of September 21, 1999, for goods in class 12, designation, *inter alia*, the European Union and the OAPI (the "CORADIA Trademark") and the European Union trademark ALSTOM CORADIA (word / 3D shape mark), with registration no. 018514762 and with an application date of July 15, 2021 and a registration date of November 19, 2021, for goods and services in classes 9, 12, 37, 42 (the "ALSTOM CORADIA Trademark").

The aforementioned trademark registrations will hereinafter also jointly be referred to as the "Trademarks", or in singular to "Trademark" where there is no need to specify the specific trademark registration involved.

The Domain Name was registered on July 15, 2021. The Domain Name redirects to a website on which the Domain Name is being offered for sale (the "Website").

5. Parties' Contentions

A. Complainant

The Complainant contends the following:

The Domain Name is identical or at least confusingly similar to the Trademarks. More specifically, the Domain Name encompasses the ALSTOM Trademark and the CORADIA Trademark in their entirety. As the Domain Name contains both Trademarks wholly and identically. In addition to this the Complainant filed a trademark application in the European Union for ALSTOM CORADIA on the very same day the Registrant registered the Domain Name. The Domain Name is also identical or at least confusingly to the latter trademark registration.

The Respondent failed to prove its rights or legitimate interests in respect of the Domain Name. The Respondent is not in any way affiliated with the Complainant. Additionally, the Respondent has not secured a license to use the Trademark and/or Trademarks. Nor has the Respondent any other authorization and never requested such permission to use the Trademarks.

Moreover, the Domain Name has been registered and used in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademarks. This is because the Respondent chose to associate the ALSTOM Trademark with the CORADIA Trademark, which are both well-known trademarks. Therefore, there is no plausible explanation other than that the Respondent must have been aware of the Complainant's rights and activities. The Respondent has also used a privacy service to register the Domain Name. However, the name of the Respondent that the registrar provided, is associated with two WIPO UDRP decisions in which the panel decided to transfer the domain names registered by the Respondent. The disputed domain names that needed to be transferred, also combined the two well-known trademarks of the

complainant in question. Furthermore, the Domain Name resolves to a website that offers the Domain Name for sale. The Domain Name is, therefore, not being used for any genuine activities.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has proven to have rights in the Trademarks.

The Domain Name is comprised of the Trademarks. More specifically, the Domain Name consists of the ALSTOM Trademark in its entirety, followed by the CORADIA Trademark which is also reproduced in its entirety. In addition to this, the Complainant had filed a trademark application for the ALSTOM CORADIA Trademark on the same day the Domain Name was registered. The ALSTOM CORADIA Trademark application has matured to registration before the Complaint was filed. The Domain Name consists of the ALSTOM CORADIA Trademark in its entirety. The Panel, therefore, finds that this Domain Name is identical or confusingly similar to the relevant Trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant in its Complaint and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The *prima facie* case presented by the Complainant is enough to shift the burden of proof to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in regard to the Domain Name.

Nor has the Respondent ever asked for such permission. There is also no evidence that the Respondent has applied for or obtained any other (trademark) rights related to ALSTOM or CORADIA or the combination of the two.

The Respondent is also not commonly known by the Domain Name, nor has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

The Respondent has also not put forward any evidence that would support the claim that the Domain Name is being used in relation to a legitimate noncommercial or fair use. Certainly lacking a substantive response and considering that the Domain Name directs to a website on which the Domain Name is offered for sale, the Respondent's use cannot be considered a legitimate noncommercial or fair use.

The Panel, therefore, finds that the second element has also been satisfied.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered and used the Domain Name in bad faith and refers to its considerations under section 6.B. above.

Taking into consideration the evidence filed by the Complainant, the Panel finds that the Trademarks and the Complainant's activities are well-known throughout the world. In addition to this the Panel finds that the ALSTOM Trademark is well-known in the country where the Respondent purports to be located. The Complainant is owner of numerous trademarks and is active in more than 60 countries worldwide. Accordingly, the Panel finds that there is no other plausible explanation than that the Respondent was aware of the existence of the Complainant's rights and activities at the time the Respondent registered the Domain Name. In this regard the Panel highlights the fact that the Registrant combined in the Domain Name two well-known trademarks of the Complainant, making it all the more less likely that the Respondent was unaware of the Complainant's rights and activities.

In addition to this, as discussed under 6B, the Panel finds that the Domain Name reverts to a website on which the Domain Name is being offered for sale. The primary purpose of the registration of the Domain Name is thus to sell or otherwise make a profit in relation to the Domain Name by causing confusion and trying to establish an association with the well-known ALSTOM Trademark. This is evidence of registration in bad faith under Policy, paragraph 4(b)(i). Moreover, offering a domain name for sale in such a manner is in itself evidence of use in bad faith of the Domain Name.

Furthermore, the Complainant has made the undisputed claim that the Respondent's name is associated with two prior WIPO UDRP decisions in which the panel decided against the Respondent. Meaning that the reserved domain names needed to be transferred back to the complainant in question. On top of that the disputed domain names, like the Domain Name <alstomcoradia.com>, consisted of a combination of two well-known trademarks owned by the complainant. In accordance with section 3.1.2 of the [WIPO Overview 3.0](#), such conduct would establish a pattern of bad faith conduct.

In addition to this, the Panel takes into consideration that the Respondent has been hiding behind a privacy shield and has not replied to any of the emails sent by the Complainant. In accordance with section 3.6 of the [WIPO Overview 3.0](#) this supports a finding of registration and or use in bad faith.

Finally, although the lack of a formal or substantive response by the Respondent as such cannot by itself lead to the conclusion that there is registration and use in bad faith, the cumulative circumstances as outlined in the Decision are sufficient for the Panel to find that the registration and use of the Domain Name by the Respondent is in bad faith.

In light of the above circumstances, the Panel is satisfied that the third element of the Policy is met and that the Domain Name was registered and is being used in bad faith.

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, <alstomcoradia.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: April 22, 2022