

## **ADMINISTRATIVE PANEL DECISION**

ALSTOM v. A Noniem, Anoniem  
Case No. DNL2022-0029

### **1. The Parties**

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

The registrant of the disputed domain name is A Noniem, Anoniem, Netherlands (the “Respondent”).

### **2. The Domain Name and Registrar**

The disputed domain name <pvalstom.nl> (the “Disputed Domain Name”) is registered with SIDN through AXC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 1, 2022. On July 1, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Disputed Domain Name. On July 4, 2022, SIDN 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 July 18, 2022, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on July 21, 2022. The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint and the proceedings commenced on July 22, 2022. In accordance with the Regulations, article 7.1, the due date for Response was August 11, 2022. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on August 15, 2022.

The Center appointed Moïra Truijens as the panelist in this matter on August 30, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

#### 4. Factual Background

The Complainant is a French company established in 1928. It is a global leader in transport infrastructures, employing some 34.000 professionals in more than 60 countries. Between April 1, 2021, and December 31, 2021, the Complainant's order intake reached EUR 14.3 billion and its sales reached EUR 11.4 billion.

The goods and services the Complainant produces are well known throughout the world. The Netherlands is a key country for the Complainant; the Complainant currently employs 400 people around 17 sites and has 700 rail vehicles operating or contracted in the Netherlands.

The Complainant holds registrations that comprise the word "alstom" in the Netherlands and in numerous jurisdictions around the world, including *inter alia* the following registrations (hereinafter also referred to as the "Trademark" in singular):

- European Union Trademark Registration Number 948729 for ALSTOM registered on August 8, 2001, in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42;

- International Registration Number 706292 for ALSTOM registered on August 28, 1998, duly renewed, covering 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 designating *inter alia* the Benelux.

The Complainant is also the registrant of numerous domain names under various generic and country code Top-Level Domains that comprise its Trademark, such as <alstom.com> registered since January 20, 1998, redirecting to the ALSTOM group's website, and <alstom.nl>.

The Complainant also owns companies and trade name rights in the denomination "alstom", in particular, in the Netherlands: ALSTOM N.V., New ALSTOM Holdings B.V., ALSTOM Maintenance B.V., ALSTOM Signaling B.V., and ALSTOM Rotterdam.

The Disputed Domain Name was registered on April 6, 2022. The Disputed Domain Name redirects to an inactive webpage containing the following message: "To change this page, upload your website into the public\_html directory."

#### 5. Parties' Contentions

##### A. Complainant

The Complaint's contentions may be summarized as follows.

The Complainant asserts that the Disputed Domain Name is confusingly similar to the Trademark, because the Disputed Domain Name consists of the Trademark in its entirety. The presence of the letters "pv" before the word "alstom" is insufficient to exclude the likelihood of confusion, since the word "alstom" remains directly recognizable with the Disputed Domain Name.

The ".nl" country code Top-Level Domain ("ccTLD") is not to be taken into consideration when examining the identity or similarity between the Disputed Domain Name and the relevant mark(s).

Furthermore, given the reputation of the Complainant and its activities worldwide, the Disputed Domain Name will be directly considered by the public as belonging to the Complainant.

The Respondent does not have rights or legitimate interests in respect of the domain name <pvalstom.nl> under the Regulations, article 2.1 sub b.

First of all, the Complainant never authorized a third party to register the Disputed Domain Name. The Respondent is not affiliated to the Complainant in any way. 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 "pvalstom". The Respondent is not commonly known under the name "alstom" or "pvalstom" either.

Secondly, the Complaint was sent to the email address "[...@anoniem.nl]" (listed on the Whois extract) and to the Registrar, and remained unanswered.

Finally, the URL "www.pvalstom.nl" redirects to a webpage containing the following message: "To change this page, upload your website into the public\_html directory." There is no evidence that the Respondent has made use or prepared to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

According to the Complainant, the Disputed Domain Name was registered and is being used in bad faith, since it was acquired long after the Trademark became well known. In view of this, it is virtually impossible that the Respondent was not aware of the Complainant's activities, at the time it registered the Disputed Domain Name.

Additionally, the Respondent is hiding its real identity and may be a cybersquatter, according to the Complainant. There is no information about the Registrant in the Whois extract of the Disputed Domain Name. The email address is "[...@anoniem.nl]" and the Complaint sent to this anonymized address (and to the Registrar) has remained unanswered. The Center has forwarded the Registrant's identity received from SIDN, namely A Noniem, Anoniem having their address at Anoniem 1, 1234AB, Anoniem, Netherlands.

The Dutch word "anoniem", corresponding to the Respondent's provided name, means "anonymous" in the English language. According to the Complainant, it means that the Complainant, the Center and SIDN have no information regarding the Registrant's real identity, which the Complainant asserts is a clear indication of cybersquatting.

The Complainant states that a search on <www.reversewhois.io> revealed that there are 731 domain names registered under the name "anoniem" and numerous reproduce reputed trademarks or third party trademarks (e.g., <authenticatorforwindows.com>, <devolksbank.com>, <myeurovision.tv>, <subway.one>, <brixsystems.com>, <carletonmarkswalden.com>, <doge.digital>, <mycentralchart.com>). Additionally, the Respondent's address (Anoniem 1, 1234AB Anoniem, Netherlands) is false since "Anoniem" is not the name of a street or a city in the Netherlands.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to article 2.1 of the Regulations, the Complainant must prove each of the following three elements:

a. the Disputed Domain Name is identical or confusingly similar to:

I) a trademark, or trade name, protected under Dutch law in which the Complainant has rights; or

II) a personal name registered in the General Municipal Register ("Gemeentelijke Basisadministratie") of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a permanent basis; and

- b. the Respondent has no rights to or legitimate interests in the Disputed Domain Name; and
- c. the Disputed Domain Name has been registered or is being used in bad faith.

In accordance with article 10.3 of the Regulations, the Panel shall determine the admissibility, relevance and weight of the evidence submitted; if no response has been submitted, the Panel shall rule on the basis of the complaint; and the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or fact.

### **A. Identical or Confusingly Similar**

The Complainant has shown registered rights in the Trademark. The Disputed Domain Name is confusingly similar to the Trademark as it incorporates ALSTOM in its entirety. The addition of the letters “pv” to the Trademark in the Disputed Domain Name do not alter the fact that the Trademark is well recognizable in the Disputed Domain Name (see also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview .3.0](#)”), section 1.7).<sup>1</sup>

The ccTLD “.nl” is typically disregarded under the confusing similarity test, since it is a technical registration requirement (see [WIPO Overview 3.0](#), section 1.11).

The Panel finds that the Disputed Domain Name is confusingly similar to the Trademark and that the Complainant has thus established the first element of article 2.1 of the Regulations.

### **B. Rights or Legitimate Interests**

A complainant bears the burden of *prima facie* showing that the respondent has no rights to or legitimate interests in the domain name. If a complainant succeeds in making a *prima facie* case, the burden of production shifts to the respondent, which will then have to come forward with appropriate allegations or evidence demonstrating a right to or legitimate interest in the domain name (*Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Article 3.1 of the Regulations provides circumstances in which such rights or legitimate interests to a domain name may be demonstrated. These circumstances include i) use of the domain name in connection with a *bona fide* offering of goods or services; ii) being commonly known by the domain name; and iii) making legitimate noncommercial or fair use of the domain name.

Based on the evidence and the undisputed submissions of the Complainant, the Panel concludes that the Respondent has not received the Complainant’s consent to use the Trademark as part of the Disputed Domain Name, nor that it has otherwise been authorized to use the Trademark.

The Respondent has not provided evidence, nor is there any indication in the record of this case that the Respondent is commonly known by the Disputed Domain Name.

The Respondent did not demonstrate any use or demonstrable preparation to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

Finally, in the circumstances of this case, the Panel finds that a lack of rights to or legitimate interests in the Disputed Domain Name on the part of the Respondent is further supported by the fact that no response was filed by the Respondent and that the Respondent is hiding its real identity behind false data.

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<sup>1</sup> In view of the fact that the Regulations are to an extent based on the Uniform Domain Name Dispute Resolution Policy (“UDRP”), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

The Panel concludes that the Complainant has met the second requirement of article 2.1(b) of the Regulations.

### **C. Registered or Used in Bad Faith**

In accordance with article 3.2 of the Regulations, the Complainant has to show that the Disputed Domain Name was registered or is being used in bad faith. Several circumstances, put forward by the Complainant, make that the Panel finds that this is so.

When the Respondent registered the Disputed Domain Name, the Trademark had already been registered and was being used by the Complainant for its products. Given the well-known character of the Trademark, the Panel finds that at the time of registration of the Disputed Domain Name, the Respondent knew or should have known that it would be confusingly similar to the Trademark.

The Disputed Domain Name redirects to a website that appears to be inactive apart from the message: "To change this page, upload your website into the public\_html directory." The Panel finds no evidence that the Respondent has made use or made demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

As noted in section 3.3 of [WIPO Overview 3.0](#), previous UDRP panels have consistently found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive-holding. In accordance with this doctrine, the Panel takes into account the apparent reputation of the Trademark, the failure of Respondent to submit a response, and the Respondent's concealment of its identity and use of false contact details.

The Panel concludes that the requirement of article 2.1(c) of the Regulations has also been met.

### **7. Decision**

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the domain name <pvalstom.nl> be transferred to the Complainant.

*/Moira Truijens/*

**Moira Truijens**

Panelist

Date: September 13, 2022