

ADMINISTRATIVE PANEL DECISION

Alstom v. Maxi Milano
Case No. D2023-1108

1. The Parties

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

Respondent is Maxi Milano, Nigeria.

2. The Domain Name and Registrar

The disputed domain name is <alstomgroup.com> which is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 13, 2023. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 2023, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on March 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 12, 2023.

The Center appointed Gerardo Saavedra as the sole panelist in this matter on April 21, 2023. This Panel finds that it was properly constituted. This 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

Complainant is engaged in the transport infrastructure sector.

Complainant has rights over the ALSTOM mark for which it holds several mark registrations, such as European Union Trademark registration No. 000948729 in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42, registered on August 8, 2001; Nigerian Trademark registration No. 57307 in class 12, registered on April 13, 2000; and International Trademark registration No. 706292 in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42, registered on August 28, 1998.

Complainant is the registrant of the domain names: <alstom.com> created on January 20, 1998, and <alstomgroup.com> created on November 14, 2000.

The disputed domain name was registered on January 10, 2023. At the time the Complaint was filed, the disputed domain name resolved to a parking web page showing, among others, “alstomgroup.com”, “Related Searches”, followed by hyperlinks, apparently of Pay-Per-Click (“PPC”) nature, such as “The Electric Power”, “Power and Light”, “Power Transmission”.

5. Parties' Contentions

A. Complainant

Complainant's assertions may be summarized as follows.

Complainant, a French company created in 1928, operates worldwide and plays a significant role in the manufacture and overhaul of rolling stock, employing 34.000 professionals in more than 60 countries. Nigeria, where Respondent is apparently established as per the Whois report, is notably a key country for Complainant, and Complainant has been present there since 2000, actively contributing to the development of urban transport in said country.

Complainant holds mark registrations that comprise the word “alstom” in numerous jurisdictions around the world. A number of UDRP decisions have considered the name Alstom as famous and/or well known.¹ Complainant is also the registrant of numerous domain names under various generic and country code Top Level-Domains (“gTLDs” and “ccTLDs”) that comprise its ALSTOM mark.

Complainant owns a number of companies whose names include the word Alstom, such as Alstom Transport Technologies, Alstom Power Systems, Alstom Holdings, and Alstom Shipworks. The denomination Alstom Group is widely used by Complainant to designate the company and its subsidiaries, and it corresponds to the email addresses of Complainant's employees (*i.e.* “[...]@alstomgroup.com”).

The disputed domain name is confusingly similar to Complainant's ALSTOM mark. The disputed domain name identically reproduces the ALSTOM mark, followed by “qroup” (the letter “g” is replaced by the letter “q”, having both the same vertical shape; consequently, “qroup” is likely to be perceived and pronounced as “group”). The ALSTOM mark is recognizable within the disputed domain name given its location in first position and its association with the second word “qroup”, which is purely descriptive when appearing directly next to a company name.

Respondent does not have rights or legitimate interests in respect of the disputed domain name. Respondent is not affiliated in any way to Complainant. Complainant has not authorized or permitted Respondent to register or use a domain name incorporating its marks. Given the reputation of ALSTOM and

¹ Among others, Complainant relies on *ALSTOM v. Daniel Bailey (Registrant I D: tuuROSvPJbZdd2XO)*, WIPO Case No. [D2010-1150](#); and *Alstom S.A. and General Electric Company v. Sichuan Shanghai Electric Power T&D Engineering Co., Ltd*, WIPO Case No. [DCO2016-0030](#).

Complainant's activities worldwide, the disputed domain name will be considered by the public as belonging to Complainant.

Respondent has not made use or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services. The disputed domain name redirects to a parking page that contains links relating to power generation (field of activity related to Complainant's activities). UDRP decisions have set forth that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

The disputed domain name was registered and is being used in bad faith. The registration and use of the disputed domain name takes unfair advantage of the significant reputation of ALSTOM. The disputed domain name was acquired long after Complainant's ALSTOM marks became well known, and thus it is virtually impossible that Respondent was not aware of Complainant's activities at the time it registered the disputed domain name.

The denomination Alstom Group is widely used by Complainant. The disputed domain name reproduces the denomination Alstom Group in a misspelled way, which is a typosquatting act. By misspelling the expression Alstom Group, web users are likely to fall on the website linked to the disputed domain name; this may result in confusion as to who owns and operates under the disputed domain name. Complainant is the owner of the almost identical domain name <alstomgroup.com> that Complainant uses as email server address and appears in all the email addresses of Complainant's employees. The disputed domain name is confusingly similar to Complainant's and thus it can conduct Internet users to read the disputed domain name as <alstomgroup.com>; Internet users receiving emails from the disputed domain name's server address may not be able to see the difference with Complainant's.

Respondent is a cybersquatter who appears in several UDRP decisions which ordered the transfer of the domain names at issue in favor of the corresponding complainants (for instance, *Boehringer Ingelheim Pharma GMBH & Co.KG v. maxi milano*, WIPO Case No. [D2021-3900](#); and *The Edrington Group Limited v. maxi milano*, WIPO Case No. [D2022-4964](#)). Further, Respondent's name is associated with 80 domain names, some of them reproducing third parties' marks, such as <cn-chevrongroup.com>, <dynamacc.com>, <haggfullerton-se.com> and <haggfullerton.com>.

On January 20, 2023, Complainant sent by email a cease-and-desist communication to both the Registrar and Respondent. No response was received from Respondent. Thus, Respondent refused all opportunities to discuss matters with Complainant and has not in any way attempted to justify the imitation of the ALSTOM marks.

According to a search on Google Maps, Respondent's street address appearing in the WhoIs record does not exist. When searching for such address, Google Maps redirects to a similar but different address. By using false contact details, Respondent prevents Complainant from identifying it and from taking actions against its unlawful actions.

Complainant requests that the disputed domain name be transferred to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the 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".

The lack of Response from Respondent does not automatically result in a favorable decision for Complainant (see *Berlitz Investment Corp. v. Stefan Tincuлесcu*, WIPO Case No. [D2003-0465](#), and section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The burden for Complainant, under paragraph 4(a) of the Policy, is to show: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) that 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.

A. Identical or Confusingly Similar

It is undisputed that Complainant has rights over the ALSTOM mark.

Since the addition of the gTLD “.com” in a domain name is technically required, it is well established that such element may be disregarded where assessing whether a domain name is identical or confusingly similar to a mark. The disputed domain name reflects the ALSTOM mark in its entirety, albeit followed by “group”. It is clear to this Panel that the ALSTOM mark is recognizable in the disputed domain name and that the addition of such term in the disputed domain name does not avoid a finding of confusing similarity with said mark (see sections 1.7 and 1.8 of the [WIPO Overview 3.0](#)).

Thus, this Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant has alleged and Respondent has failed to deny that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Complainant contends that it has not authorized Respondent to use its marks, that Respondent is not affiliated with Complainant, that the disputed domain name creates a likelihood of confusion with Complainant, its ALSTOM marks and its official domain name <alstomgroup.com> (which Complainant uses as email server address for its employees), and that Respondent has not made use or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services. The evidence in the file shows that the website associated with the disputed domain name shows hyperlinks, apparently of PPC nature, to other web pages. The disputed domain name reflects Complainant’s name and mark in its entirety.

This Panel considers that Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.² In the present proceeding, there is no evidence of circumstances of the type specified in paragraph 4(c) of the Policy or of any other circumstances giving rise to a possible right to or legitimate interest in the disputed domain name by Respondent.

Based on the aforesaid, this Panel concludes that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Complainant contends that Respondent’s registration and use of the disputed domain name is in bad faith, which Respondent chose not to rebut.

Taking into consideration that Complainant’s registration and use of the ALSTOM mark preceded the creation of the disputed domain name, Complainant’s international presence, that Complainant’s

² See *Casio Keisanki Kabushiki Kaisha (Casio Computer Co., Ltd.) v. Jongchan Kim*, WIPO Case No. [D2003-0400](#): “There is no evidence that the Complainant authorized the Respondent to register the disputed domain name or to use the CASIO trademark, with or without immaterial additions or variants. These circumstances are sufficient to constitute a *prima facie* showing by the Complainant of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent”. See also section 2.1 of the [WIPO Overview 3.0](#).

conglomerate is referred to as “Alstom Group”, and the substantial similarity of the disputed domain name with Complainant’s official domain name <alstomgroup.com>, this Panel is of the view that Respondent should have been aware of the existence of Complainant and its mark at the time Respondent obtained the registration of the disputed domain name, which is indicative of bad faith.

Further, Respondent’s bad faith may be deduced from the following facts: (i) Respondent is using Complainant’s name and mark at the disputed domain name without Complainant’s authorization; (ii) the substantial and confusing similarity of the disputed domain name with Complainant’s official domain name <alstomgroup.com> reflecting just a single letter variation by replacing “group” with “qroup” in the disputed domain name (which, in the case at hand, might be deemed as the practice commonly known as “typosquatting” and which has been deemed as a strong indicative of bad faith under a number of UDRP cases³); (iii) the lack of any basis in the file to conceive a legitimate use of the disputed domain name by Respondent;⁴ (iv) prior UDRP decisions against Respondent for having registered as domain names marks of third parties, which is also strong evidence of bad faith;⁵ (v) Respondent’s registration of other domain names that, *prima facie*, reflect marks of third parties;⁶ (vi) Respondent’s use of a street address that, based on the evidence in the file, seems to indicate that Respondent provided inaccurate contact details; (vii) Respondent’s failure to reply to Complainant’s cease-and-desist communication;⁷ and (viii) Respondent’s failure to appear in this proceeding, which may be indicative that Respondent lacks arguments and evidence to support its holding of the disputed domain name.

In sum, this Panel concludes that the overall evidence indicates that Respondent’s choice of the disputed domain name was deliberate for its confusing similarity with Complainant’s ALSTOM mark and <alstomgroup.com> domain name, and with the likely intention to benefit from them and/or potentially disrupt Complainant’s business, which denotes bad faith.

In light of the above, this Panel finds that 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, this Panel orders that the disputed domain name, <alstomgroup.com> be transferred to Complainant.

/Gerardo Saavedra/

Gerardo Saavedra

Sole Panelist

Date: May 5, 2023

³ See *Amazon.com, Inc. v. Steven Newman a/k/a Jill Wasserstein a/k/a Pluto Newman*, WIPO Case No. [D2006-0517](#): “the practice of typosquatting, in and of itself, constitutes bad faith registration.” See also *Go Daddy Software, Inc. v. Daniel Hadani*, WIPO Case No. [D2002-0568](#): “Typosquatting is virtually *per se* registration and use in bad faith”

⁴ See *Ferrari S.p.A. v. Ms. Lee Joohee (or Joo-Hee)*, WIPO Case No. [D2003-0882](#): “Respondent has provided no evidence or suggestion of a possible legitimate use of the Domain Name. Thus, in the words of Telstra, it is not possible to conceive of any plausible actual or contemplated active use of the Domain Name by the Respondent that would not be illegitimate.” See also *Flight Refuelling Ltd v. Neog Inc*, WIPO Case No. [D2005-0503](#): “The Panel cannot conceive of a situation in which Respondent could use the name in good faith, and Respondent has not suggested that there are any”. See also section 3.3 of the [WIPO Overview 3.0](#).

⁵ See section 3.1.2 of the [WIPO Overview 3.0](#). See also *The Edrington Group Limited v. maxi Milano*, WIPO case No. [D2022-4964](#); *Boehringer Ingelheim Pharma GMBH & Co.KG v. maxi Milano*, WIPO Case No. [D2021-3900](#).

⁶ See *Discover Financial Services v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3107](#): “The Panel agrees that the Respondent is clearly in the business of registering domain names that include the trademarks of others [...] This alone constitutes evidence of registration and use in bad faith”.

⁷ See *Fenix International Limited v. Oleg Zabugrovskiy*, WIPO Case No. [D2021-3386](#): “failure by the Respondent to answer the Complainant’s cease and desist letter suggests that the Respondent was aware that he has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith”.