

## **ADMINISTRATIVE PANEL DECISION**

Alstom v. Carolina Rodrigues, Fundacion Comercio Electronico  
Case No. D2023-1196

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <alstromgroup.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2023. On March 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 22, 2023 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 22, 2023.

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 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 14, 2023.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on April 20, 2023. 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 company created in 1928.

The Complainant operating in the industries of transport infrastructures, employing 34.000 professionals in more than 60 countries.

ALSTOM holds registrations that comprise the word “Alstom” in numerous jurisdictions around the world, including, among others, the following trademark registrations:

- United States Trademark Registration N°85507365 ALSTOM and device registered on November 6, 2012, in class 12.
- United Kingdom Trademark Registration N°00900948729 ALSTOM registered on August 8, 2001, duly renewed, in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.
- International Registration N°706292 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.
- European Union Trade Mark Registration N°948729 ALSTOM registered on August 8, 2001, duly renewed, in classes 1, 2, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42.

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, and <alstomgroup.com> registered on November 14, 2000.

The disputed domain name <alstromgroup.com> was registered on March 7, 2023, redirects to parking page containing links related to management staff and e-commerce.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain name is almost identical to the Complainant's trademark ALSTOM which has become a distinctive identifier of its service offerings.

The Complainant argues that the disputed domain name is identical and/or confusingly similar to its well-known ALSTOM trademarks with the addition of the letter “r” in the middle of “alstom” and the term “group”.

The Complainant sent on March 14, 2023 an email to the Registrar, asserting its trademark rights and requesting the website deactivation and any related websites. The Registrar responded the same day, refusing to accede to this request and inviting the Complainant to file a UDRP Complaint.

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name to advance legitimate interests.

The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including its trademarks. The Complainant submits that the disputed domain name has been registered and is being used in bad faith as it is redirecting to a parking page displaying links targeting the Complainant's field of activity and its trademark.

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

## B. Respondent

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove that:

- (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 was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

### A. Identical or Confusingly Similar

In the present case, the disputed domain name <alstromgroup.com> is similar to the Complainant's registered well-known trademark ALSTOM.

The ALSTOM trademark is recognizable in the disputed domain name.

Section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

Section 1.9 of [WIPO Overview 3.0](#) states that "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

The misspelling of the trademark with the letter "r" and the addition of the word "group" to the Complainant's trademark, does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. See *Skyscanner Limited v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2019-2881](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the Complainant's mark.

Therefore, the Panel finds the first element of the Policy has been met.

### B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant must demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

There is nothing in the available case file to suggest that the Respondent is in any way affiliated with the Complainant, nor has the Complainant authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

In *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#), the panel stated that: “in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by Respondent.”

The Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Panel concludes, noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, that the second element of the Policy has, therefore, been met.

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

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

On the evidence adduced, it is improbable that the registrant of the disputed domain name was unaware of the Complainant’s name, trademark, reputation, and goodwill when the disputed domain name was registered.

In *The Nasdaq Stock Market, Inc., v. Hamid Reza Mohammad Pouran*, WIPO Case No. [D2002-0770](#), the panel held: “The Respondent knew or should have known of the existence of the Complainant, [as] the Complainant’s trademark [was] widely publicized globally and constantly featured throughout the Internet, and thus the Panel decides that the disputed domain names were registered in bad faith”.

Furthermore, and most tellingly, the act of “typosquatting” or registering a domain name that is a common misspelling of a mark in which a party has rights has often been recognized as *per se* evidence of bad faith registration. [WIPO Overview 3.0](#), section 3.2.1 (“Particular circumstances UDRP panels take into account in assessing whether the respondent’s registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely known mark ...”). See also *Paragon Gifts, Inc. v. Domain.Contact*, WIPO Case No. [D2004-0107](#) (citing *National Association of Professional Baseball Leagues, d/b/a Minor League Baseball v. Zuccarini*, WIPO Case No. [D2002-1011](#)); *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) (finding that the practice of “typosquatting”, of itself, is evidence of the bad faith registration of a domain name).

The Respondent, by using the disputed domain name, is intentionally misleading the consumers, and confusing them trying to attract them to other websites making them believe that the websites behind those links are associated with or recommended by the Complainant.

Based on the above, the Panel finds that the Respondent registered the disputed domain name to attract Internet users, for commercial gain, by creating a likelihood of confusion with the Complainant’s trademarks and domain names (Policy, paragraph 4(b)(iii)).

Accordingly, pursuant to paragraph 4(b) of the Policy, this Panel finds that disputed domain name was registered and is being used in bad faith by the Respondent.

On this basis the Panel finds that the Complainant has satisfied the third and last point of the Policy, paragraph 4(a)(iii).

## 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 <alstromgroup.com> be transferred to the Complainant.

*/Eva Fiammenghi/*

**Eva Fiammenghi**

Sole Panelist

Date: May 2, 2023