

ADMINISTRATIVE PANEL DECISION

Alstom v. manish Gour
Case No. D2024-3094

1. The Parties

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

The Respondent is manish Gour, India.

2. The Domain Name and Registrar

The disputed domain name <alstomindia.site> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 29, 2024. On July 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 2024, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 2024, 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 August 2, 2024.

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 August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit a Response, however sent an email to the Center on August 5, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on September 12, 2024. 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, a French company founded in 1928, is a global leader in transport infrastructure, employing over 80,000 professionals across more than 63 countries.

In 2022-2023, the Complainant's global order intake reached EUR 20.7 billion, with sales totaling EUR 16.5 billion.

In India, where the Respondent is based according to the Registrar-disclosed details identified above, the Complainant operates six industrial sites and two engineering centers, driving innovation through advanced technologies in rolling stock, rail equipment, infrastructure, signaling, and services. With 9,000 employees in India, the Complainant has been recognized as a "Top Employer" for three consecutive years.

The Complainant has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- International trademark registration No. 706360, registered on August 28, 1998, for the figurative mark ALSTOM, in classes 1, 2, 4, 6, 7, 9, 11-13, 16, 17, 19, 24, and 35-42; and
- Indian trademark registration No. 1798988, registered on March 24, 2009, for the word mark ALSTOM, in class 37, 39, 40 and 42.

The Complainant is also the owner of domain names such as <alstom.com>, registered in 1998, <alstomindia.com>, registered in 2010, and <alstomindia.org>, registered in 2021.

The aforementioned trademarks and domain names were registered prior to the disputed domain name, which was registered on June 17, 2024. As of the date of this Decision, the disputed domain name resolves to an inactive webpage. At the time of filing the Complaint, the disputed domain name resolved to the Registrar parking page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant asserts that the ALSTOM trademark is well-known.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark, ALSTOM, as it incorporates the entire trademark. The addition of the geographic term "india" directly referring to the Complainant's activities in India, does not alter the overall impression that the disputed domain name is associated with the Complainant's trademark or prevent confusing similarity. In respect of the generic Top-Level Domain ("gTLD") ".site", which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant asserts that the Respondent lacks any rights or legitimate interests in the disputed domain name for the following reasons: (1) the Complainant has never authorized, licensed, or otherwise permitted the Respondent to register or use the disputed domain name; (2) the Respondent holds no trademarks or trade names that correspond to the Complainant's trademark or the disputed domain name; and (3) the Respondent has neither used nor made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, as the disputed domain name has remained inactive since its registration.

The Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith for several reasons: (1) the Complainant's well-known trademarks significantly predate the registration of the disputed domain name; (2) the Respondent failed to respond to the Complainant's cease-and-desist letter, making no attempt to assert any legitimate rights or interests in the disputed domain name; (3) the disputed domain name has not been used in connection with a bona fide offering of goods or services, as it has remained inactive since its registration; (4) the disputed domain name constitutes a clear case of cybersquatting, as it closely resembles the Complainant's established domain names <alstomindia.com> and <alstomindia.org>, differing only by the gTLD; and (5) the Respondent has actively concealed their identity by registering the disputed domain name through an anonymization service.

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

B. Respondent

The Respondent sent an email communication to the Center on August 5, 2024, informing the Center that the Respondent was willing to transfer the disputed domain name:

"Greetings for the day

I was out of town,

Thank you for your email and for providing the registrant information for the domain <alstomindia.site>.

I would like to confirm that I did not use the site in any capacity. When attempting to create a domain name with 'alcom', the auto-suggestion tool provided this domain name. I was unaware that it was associated with your organization.

In light of this information, I am willing to disarm this domain to resolve the matter.

Please advise on the next steps.

Thank you for your understanding.

Best regards,"

The Respondent did not return the signed Settlement Form necessary to implement a settlement agreement between the Parties.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a substantive response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a substantive response as it considers appropriate.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "India", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Indeed, the Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the ALSTOM trademarks or to seek registration of any domain name incorporating the trademarks. The Respondent is also not known to be associated with the ALSTOM trademarks, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

The Panel also notes that the composition of the disputed domain name carries a risk of implied affiliation or suggests sponsorship and/or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any rights or legitimate interests in the disputed domain name. In its email to the Center, the Respondent has not rebutted the Complainant's prima facie showing and has not presented any relevant evidence demonstrating rights or legitimate interests in the disputed domain name, as enumerated in the Policy or otherwise.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

On the issue of registration, the Panel observes that the Complainant's rights to the well-known ALSTOM trademarks substantially predate the Respondent's registration of the disputed domain name. The explanation provided by the Respondent regarding the choice of the disputed domain name appears implausible to the Panel.

Specifically, the Panel finds it difficult to accept the rationale behind the choice of the disputed domain name. The Panel believes it is highly likely that the Respondent knew or should have known of the Complainant's trademarks at the time of registering the disputed domain name, as outlined in [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainant's well-known trademarks by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, previous panels have established that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Upon reviewing the available evidence and considering the distinctiveness and global reputation of the Complainant's trademark, particularly in India, along with the composition of the disputed domain name, the Panel concludes that the passive holding of the disputed domain does not preclude a finding of bad faith under the Policy.

Furthermore, the composition of the disputed domain name, which is confusingly similar to the Complainant's trademark, combined with the absence of any plausible explanation for the choice of the domain name, leads the Panel to accept the strong likelihood that the Respondent was aware of the Complainant's reputation.

In light of these circumstances, the Panel finds that the Respondent's registration and use of the disputed domain name constitute bad faith.

The Panel finds that the Complainant has established the third element 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 disputed domain name <alstomindia.site> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: September 23, 2024