

ADMINISTRATIVE PANEL DECISION

ALSTOM v. Super Privacy Service LTD c/o Dynadot / fatih yildiz
Case No. D2022-0580

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot / fatih yildiz, Turkey.

2. The Domain Name and Registrar

The disputed domain names <alstommetropolis.com> and <alstomxtrapolis.com> (the “Domain Names”) are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2022. On February 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On February 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 22, 2022 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 February 25, 2022.

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 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, METROPOLIS (word), with registration no. 1572783 and with registration date of December 1, 2020, for services in class 37, designating, *inter alia*, Turkey (the "METROPOLIS Trademark") and the International Registration for the trademark X'TRAPOLIS (word/device), with registration no. 720456, with registration date of September 21, 1999, for goods in class 12, designating, *inter alia*, Turkey (the "X'TRAPOLIS 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 Names were both registered on July 16, 2021. The Domain Names both redirect to websites on which the Domain Names are being offered for sale (the "Website").

5. Parties' Contentions

A. Complainant

The Complainant contends the following:

The Domain Names are each confusingly similar to the Trademarks. More specifically, the Domain Name <alstommetropolis.com> is composed of the ALSTOM Trademark and the METROPOLIS Trademark in their entirety. Furthermore, the Domain Name <alstomxtrapolis.com> is composed of the ALSTOM Trademark in combination with the X'TRAPOLIS Trademark, both in their entirety.

The Respondent failed to prove its rights or legitimate interests in respect of the Domain Names. The Respondent is not in any way affiliated with the Complainant. Additionally, the Respondent has not secured a license to use the Trademarks. Nor has the Respondent any other authorization and never requested such permission to use the Trademarks. There is also no legitimate noncommercial or fair use of the Domain Names.

Moreover, the Domain Names have been registered and used in bad faith. The Respondent registered the Domain Names with prior knowledge of the Trademarks. The Respondent has also used a privacy service to register the Domain Names. However, the name of the Respondent that the registrar provided, is associated with over 100 domain names that seem to reproduce or imitate well-known trademarks. Furthermore, the Domain Names both revert to pages that are offering the Domain Names for sale. The Domain Names are, 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 – for each of the Domain Names – 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 Names all comprise of the Trademarks. More specifically, the Domain Name <alstommetropolis.com> consists of the ALSTOM Trademark in its entirety, followed by the METROPOLIS Trademark which is also reproduced in its entirety. The Panel, therefore, finds that this Domain Name is confusingly similar to the relevant Trademarks.

The Domain Name <alstomxtrapolis.com> consists of the ALSTOM Trademark in its entirety as well to which the X'TRAPOLIS Trademark is added. Once again, the Panel, therefore, finds that also this Domain Name is 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 Names.

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 Names, such as:

(i) use or preparation to use the Domain Names or a name corresponding to the Domain Names 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 Names (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 Names, 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 production to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Names. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the Domain

Names, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

The Complainant has asserted that the Respondent is not affiliated with the Complainant in any way. Moreover, there is no evidence that the Respondent is, or has ever been, a licensee of the Complainant. Additionally, the Respondent was never authorized to register the Domain Names 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.

The Respondent has also not put forward any evidence that would support the claim that the Domain Names are being used in relation to a legitimate noncommercial or fair use. Certainly lacking a substantive Response and considering that both the Domain Names redirect to a webpage on which the Domain Names are being 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 been satisfied.

C. Registered and Used in Bad Faith

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

In light of the evidence filed by the Complainant, the Panel finds that the Trademarks and the Complainant's activities are well-known throughout the world and also in particular 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 Names.

In addition to this, as discussed under 6B, the Panel finds that the Domain Names revert to webpages on which the Domain Names are being offered for sale. The primary purpose of the registration of the Domain Names is thus to sell or otherwise make a profit in relation to the Domain Names. 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 Names.

Furthermore, the Complainant has made the undisputed claim that the Respondent's email address is associated with over 100 domain names that seem to reproduce or otherwise imitate well-known trademarks. In accordance with section 3.1.2 of the [WIPO Overview 3.0](#), such conduct would sufficiently establish a pattern of bad faith conduct.

In addition, the Panel takes into consideration that the Respondent has been hiding behind a privacy shield. 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 Names 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 Names were registered and are 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 Names <alstommetropolis.com and alstomxtrapolis.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: April 22, 2022