

ADMINISTRATIVE PANEL DECISION

Alstom v. Name Redacted

Case No. D2023-0158

1. The Parties

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

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <alstom-fr.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2023. On January 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 14, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 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 January 20, 2023.

On January 16, 2023, the Center notified the Parties in both English and French that the language of the registration agreement for the disputed domain name is French. On January 18, 2023, the Complainant requested for English to be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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

¹ The Respondent appears to have used the name of a former employee of the Complainant when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 in English and French the Respondent of the Complaint, and the proceedings commenced on January 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 14, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on March 7, 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 the French company Alstom founded in 1928. The Complainant is a global leader in the world of transport infrastructures and employs 34 000 professionals in more than 60 countries.

Its activity is well-known worldwide. Between April 1, 2021 and December 31, 2021, the Complainant recorded a commercial performance of EUR 11.4 billion.

The Complainant is the owner of numerous trademarks for ALSTOM, including the following:

- French Trademark Registration N°98727759 ALSTOM filed and registered on April 10, 1998, duly renewed; and
- European Union Trademark Registration N°000948729 ALSTOM registered on August 8, 2001, duly renewed.

The Complainant also owns several domain names containing ALSTOM, including <alstom.fr> registered on December 29, 1997.

The disputed domain name was registered on November 10, 2022, in the name of a privacy service and resolves to an inactive website.

On November 21, 2022, the Complainant sent a trademark claim to the Registrar and to the Registrant.

The Complainant received no response from both the Registrar and the Registrant.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its earlier trademarks as it incorporates its earlier trademarks together with the term “fr” which is the abbreviation used to designate France. In addition, for the Complainant, 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 Complainant further contends that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. Indeed, the Respondent reproduces the Complainant’s earlier trademarks in the disputed domain name without having been permitted. In addition, the Complainant asserts that the Respondent is impersonating the identity of an employee of the Complainant but also uses an email address of a managing director of a German publishing company, company having no link with the

Complainant. The Complainant stresses that the email address used is incorrect and that it is highly unlikely that said person registered the disputed domain name. For the Complainant there is hence a double identity theft. Finally, the Complainant notes that the disputed domain name directs to an inactive website.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. Indeed, the Complainant submits that the disputed domain name, which wholly incorporates the ALSTOM trademarks, was acquired long after the Complainant's mark became well-known. Further it says that the ALSTOM trademarks are so well-known that it is impossible that the Respondent was not aware of the Complainant's business activities when it registered the disputed domain name.

The Complainant notes that the registrant of the disputed domain name is hiding its identity behind a privacy service and failed to respond to the Complainant's communications asserting its prior rights in the ALSTOM trademarks. In addition, the Respondent impersonated the identity of one of the Complainant's employees and used the contact details of a person without any link with the Complainant. In that respect, the Complainant claims that impersonating third parties' identity and contact details indicates that the Respondent registered and used the disputed domain name in bad faith.

Finally, the Complainant stresses that the disputed domain name is inactive. Passive holding demonstrated the Respondent's bad faith taking into account: the Complainant's prior mark enjoys reputation; the fact that the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use; the Respondent is concealing its identity and the implausibility of any good faith use to which the disputed domain name may be put.

B. Respondent

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

6. Discussion and Findings

6.1. Language of Proceedings

The language of the Registration Agreement for the disputed domain name is French.

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding".

The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

As noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case, and that the proceeding takes place with due expedition.

The Complainant has submitted a request that the language of the proceedings be English.

The Complainant contends that:

- The registration agreement of the Registrar in this proceeding is available in English language;
- The pre-complaint exchanges have been made in English language and the Registrar responded in English language;

- The information available on the Whois extract of the Respondent indicated the Respondent was based in Toronto, in the Canadian Province of Ontario. English is the official language of the Province of Ontario; and
- Taking into account the Respondent likely committed a double identity theft, there is no proof whatsoever that the Respondent would speak French.

The Panel accepts that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into French. Moreover, the Panel notes that the Respondent did not object on the language of the proceedings.

Thus, taking these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and render this decision in English.

6.2. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely 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.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The disputed domain name incorporates in its entirety the ALSTOM trademarks of the Complainant, which is usually considered sufficient to satisfy the requirement of the first element.

The addition of the word “fr”, which is the two-letter country abbreviation for France and that of a hyphen do not avoid a finding of confusing similarity, as the trademark ALSTOM is clearly recognizable in the disputed domain name.

Furthermore, the generic Top-Level Domain (“gTLD”) “.com” does not affect the confusing similarity between the disputed domain name and the trademarks. Indeed, according to well-established consensus among UDRP panels, the addition of gTLD extensions, such as “.com”, is not to be taken into consideration when examining identity or confusing similarity between a complainant’s trademark and the disputed domain name. See section 1.11, WIPO Overview of WIPO Panel Views on Select UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Consequently, the Panel finds that the disputed domain name to be confusingly similar to the Complainant’s trademarks. The first element of the paragraph 4(a) of the Policy is thus fulfilled.

B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name: the Respondent is not commonly known under the disputed domain name, nor owns any registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way.

The inactive holding of the disputed domain name in these circumstances is not a legitimate noncommercial or fair use within paragraph 4(c)(iii) of the Policy. There is no contrary evidence from the Respondent showing that it is making use of or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services within paragraph 4(c)(i) of the Policy.

Moreover, the Complainant has adduced evidence to show that the registration of the disputed domain name is more than likely the result of a double identity theft.

Given such evidence and the absence of contrary evidence from the Respondent, the Panel considers that it is not possible for the Respondent to establish that it has rights or legitimate interests in the disputed domain name.

The Panel therefore finds, noting the Complainant's *prima facie* arguments and the absence of a response, that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Given the strong reputation of the Complainant's ALSTOM's trademarks, the Panel considers that the Respondent knew or should have known of said trademarks at the time of the registration of the disputed domain name. Noting the circumstances of the case, such knowledge is sufficient to establish that the disputed domain name was registered in bad faith.

Moreover, the fact that the Respondent used the name of an employee of the Complainant is clear indications that the Respondent had the Complainant's trademarks in mind when it registered the disputed domain name.

Furthermore, the Panel finds that the Respondent's efforts to conceal its identity through the use of a Whois privacy service can be construed as further evidence that the disputed domain name was registered in bad faith.

In addition, the Complainant has provided evidence that the Respondent's postal address and contact details, as registered with the Registrar, appear to be incorrect, which further demonstrates bad faith of the Respondent at the time of the registration.

Therefore, the Panel concludes that the Respondent was aware of the Complainant's prior rights when it registered the disputed domain name.

With respect to the use of the disputed domain name, the passive holding of the domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

In the present case, the following facts have been found to demonstrate that the passive holding is evidence of bad faith:

- The Complainant's prior mark enjoys reputation;
- The Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use;
- The Respondent is concealing its identity; and
- The implausibility of any good faith use to which the disputed domain name may be put.

In light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate under the Policy.

In these circumstances the Panel finds that the disputed domain name was registered and is being used in bad faith within 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, the Panel orders that the disputed domain name, <alstom-fr.com>, be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: March 21, 2023