

ADMINISTRATIVE PANEL DECISION

Alstom v. Malgorzata Safari

Case No. D2023-0964

1. The Parties

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

The Respondent is Malgorzata Safari, Germany.

2. The Domain Name and Registrar

The disputed domain name <alstomgruppe.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On March 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 8, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 9, 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 in English on March 10, 2023. A second amended Complaint was filed in English on March 16, 2023, correcting the Respondent’s name.

On March 9, 2023, 2023, the Center transmitted an email communication to the Parties in English and German regarding the language of the proceeding. On March 10, 2023, the Complainant submitted its request that English 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 Complaints 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 in English and German of the Complaint, and the proceedings commenced on March 17, 2023. In accordance with the

Rules, paragraph 5, the due date for Response was April 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 17, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on April 19, 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 global provider of power generation, power transmission and rail infrastructure, created in 1928 and employing 74,000 professionals in more than 70 countries.

The Complainant owns numerous registrations for the trademark ALSTOM, *inter alia*, the European Union Trademark Registration no. 00948729 registered on August 8, 2001 and the International Registration no. 706292 registered on August 28, 1998 and extended to numerous countries.

The Complainant also holds several domain names, including the domain names <alstom.com> and <alstomgroup.com>.

The disputed domain name was registered on January 23, 2023.

The disputed domain name resolves to an inactive site.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the ALSTOM trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word "gruppe" (which means "group" in German is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name and has not been authorized by the Complainant to use this trademark.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well known trademark ALSTOM at the time it registered the disputed domain name.

The disputed domain name is being used in bad faith because the lack of use of a domain name that coincides with a well-known trademark owned by someone else constitutes use in bad faith and because the Respondent provided incorrect contact details when registering the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

In the present case, German is the language of the registration agreement. Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

Paragraph 10 of the Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

The Complainant filed the Complaint in English. On March 10, 2023, the Complainant submitted a request for English to be the language of the proceeding. The Respondent did not comment on this request.

Considering that the Respondent has not submitted a formal response in German and did not comment on the language of the proceeding, the Panel determines that the language of the proceeding is English.

6.2 Substantive Issues

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the 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

The Panel is satisfied that the Complainant owns trademark registrations for its ALSTOM trademark.

The Panel notes that the disputed domain name incorporates the ALSTOM trademark in its entirety. The addition of the term “gruppe” (which means “group” in German) does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the generic Top-Level Domain “.com” in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark ALSTOM.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark ALSTOM, that the Respondent is not known by the disputed domain name and that before notice of the dispute, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark and the term "gruppe", carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its ALSTOM trademark is well-known worldwide.

In the view of the Panel, noting that the Complainant's trademark predates the registration of the disputed domain name and the nature of the disputed domain name, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name resolves to an inactive site. However, the Respondent's passive holding of this disputed domain name qualifies as use in bad faith in this case (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). In this regard, the Panel notes the reputation of the Complainant's trademark, and the Respondent's failure to submit a response or provide any evidence of actual or contemplated good-faith use. Furthermore, it is inconceivable that the Respondent could make any good faith use of the disputed domain name.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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, <alstomgruppe.com>, be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: April 20, 2023