

ADMINISTRATIVE PANEL DECISION

Alstom v. LAGIOIA Marco

Case No. D2023-3974

1. The Parties

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

The Respondent is LAGIOIA Marco, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <alstomagroup.com> is registered with Wild West Domains, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 22, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 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 September 29, 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 October 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 26, 2023.

The Center appointed Martin Michaus Romero as the sole panelist in this matter on November 2, 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 and a global leader in the world of transport infrastructures, employee 34000 professionals in more than 60 countries.

Between April 1, 2022, and December 31, 2022, its order intake reached approximately EUR 15.1 billion. Their sales reached EUR 12.3 billion.

It operates worldwide and plays a significant role in the manufacture and overhaul of rolling stock. The goods and services they produce are extremely well known throughout the world.

Alstom is a mobility technology leader in the United States, with history dating back more than 170 years. To date, it has delivered more than 12,000 new or renovated vehicles for customers from the United States and more than 50% of signaling for North America's railroads.

The Complainant holds registrations that comprise the word "alstom" in numerous jurisdictions around the world, including the following registrations:

- United States Trademark Registration No. 4236513 filed on January 3, 2012, registered on November 6, 2012 in International Class 1, 6, 7, 8, 9, 12, 13, 17, 19, and 24;

- United Kingdom ("UK") Trade mark Registration No. UK00900948729 ALSTOM filed on September 30, 1998, registered on August 8, 2021, duly renewed, in International Classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42;

- International Trademark Registration No. 706292 ALSTOM filed and registered on August 28, 1998, duly renewed, covering goods and services in International Classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41 and 42 designating notably Algeria, China, Cuba, Germany, Egypt, Republic of Korea, Japan, Mexico, Morocco, Russian Federation, Thailand, Viet Nam, UK;

- European Union Trade mark Registration No. 000948729 ALSTOM filed on September 30, 1998, 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;

It is also the registrant of numerous domain names under various generic and country-code Top-Level Domains ("gTLD", and "ccTLD") that comprise its trademark, such as the domain name <alstom.com> registered since January 20, 1998, and the domain name <alstomgroup.com> registered on November 14, 2000, both redirecting to the ALSTOM group's website.

It is also the owner of the domain names <alstomgroup.net>, registered since June 1, 2017, the domain name <alstomgroup.fr> registered since June 2, 2017 and the domain name <alstomgroup.en> registered since November 24, 2018.

The Complainant owns a number of companies and trade names rights for ALSTOM, such as Alstom Transport Technologies, Alstom Power Systems, Alstom Holdings, Alstom Shipworks, Alstom APTIS.

The Respondent registered the disputed domain name on June 14, 2023. The disputed domain name resolves to a parking page containing pay-per-click ("PPC") links related to transport and corporate solutions.

5. Parties' Contentions

A. Complainant

The Complainant stated that:

- a) the disputed domain name is confusingly similar to his trademarks since it contains the word mark "ALSTOM", entirely. It is also confusingly similar to his domain names <alstomgroup.net>, <alstomgroup.fr> and <alstomgroup.en>;
- b) the Complainant has not licensed or otherwise permitted the Respondent to use the ALSTOM Trademark or any variations or combinations thereof, or to register or use any domain incorporated any of those marks, any variations or combination thereof;
- c) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. It is used for commercial purposes, illegally redirecting to a parking page since its registration date;
- d) the Respondent has been using the disputed domain name to display commercial links related to transports solutions, which are part of the activity of the Complainant. It is clear that the Respondent has not legitimate interest in the contested domain name;
- e) the Respondent is not commonly known by the disputed domain name;
- f) the disputed domain name was registered on June 14, 2023, and currently redirects to parking page containing links related to transport and corporate solutions;
- g) on July 12, 2023, the Complainant sent a trademark claim by email to the Registrar, in order to assert its prior rights to the denomination "alstom" and notably request the Registrar to immediately suspend the domain name <alstomagroup.com> and any related websites, as well as the disclosure of the registrant's identity;
- h) the Registrar responded on July 17, 2023 asserting that the parked page will appear as "not available". However, this website has never been suspended by the Registrar and the website "www.alstomagroup.com" still resolves to a parked page to this day. Additional, concerning the request for disclosure of the registrant's identity, the Registrar invited the Complainant to file a UDRP Complaint.

B. Respondent

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

6. Discussion and Findings

Substantive elements of the Policy

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

In order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain name is identical or confusingly similar to the 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.

A. Identical or Confusingly Similar

The Complainant has submitted evidence of its rights in the ALSTOM trademark. The disputed domain name is confusingly similar to the Complainant's ALSTOM trademark. The disputed domain name reproduces the Complainant's trademark ALSTOM in its entirety.

The addition of the term "agroup" does not prevent a finding of confusing similarity between the disputed domain name and the ALSTOM trademark, since the trademark ALSTOM is recognizable in the disputed domain name. Sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Moreover, the addition of the gTLD ".com" may generally be disregarded when comparing a trademark with a disputed domain name for the purposes of the first element, as set out in section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the Complainant established the first element under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has not received permission or authorization to use the Complainant's trademark. The Respondent did not reply to the Complainant's contentions, therefore has not provided any evidence to demonstrate anything to the contrary. Nothing in the available record indicates that the Respondent is an individual, business, or corporation commonly known by the name "Alstom" or by the disputed domain name.

Furthermore, the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, nor is making a legitimate noncommercial or fair use that might give rise to rights or legitimate interests in the disputed domain name.

The Respondent resolves to a parking page with PPC links in which some links are related to the Complainant and may suggest sponsorship or endorsement by the Complainant. The PPC links at issue do not represent a *bona fide* offering since such links compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. Section 2.9 of the [WIPO Overview 3.0](#).

There is also no evidence that the Respondent owned a trademark corresponding to the disputed domain name.

According to the Complainant, the Respondent has chosen not to respond to the cease-and-desist letter sent by the Complainant's before filing the Complaint. The Respondent also did not respond to the Complainant's *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant established the second element under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to the evidence submitted by the Complainant, it is clear to the Panel that the registration and the use of the disputed domain name has been in bad faith, by incorporating the ALSTOM trademark in the disputed domain name to create a likelihood of confusion with the Complainant's trademark with the aim to deceive Internet users or lead them into believing that the disputed domain name is associated with the Complainant.

The Respondent has demonstrated, by registering the disputed domain name to resolve to a website displaying advertising links, an intent to capitalize on the goodwill of the Complainant's trademark. Furthermore, the Respondent intentionally attempted to attract for commercial gain Internet users to the disputed domain name by creating a likelihood of confusion with the Complainant's ALSTOM trademark. These activities constitute, in the Panel's view, clear evidence of registration and use of the disputed domain name in bad faith.

The Complainant's ALSTOM trademark registrations predate the registration of the disputed domain name and the Respondent knew or should have known of the Complainant's trademark rights, considering their notoriety and worldwide reputation. Therefore, it is unlikely that the Respondent was not aware of the Complainant's rights.

Considering that:

- 1) the disputed domain name is confusingly similar to the well-known trademark ALSTOM;
- 2) the Respondent was aware of the Complainant's business activities and its ALSTOM trademark at the time of registration of the disputed domain name;
- 3) the Respondent did not reply to the Complainant's cease-and-desist letter sent before filing the Complaint nor to the Complainant's contentions upon filing;
- 4) the disputed domain name points to the website "www.alstomagroup.com" displaying PPC links in order to attract Internet users to the Respondent's website. The use of the disputed domain name to generate PPC revenue by advertising links in relation to the Complainant's business is evidence of bad faith for purposes of the Policy.

The Panel concludes that registration and use of the disputed domain name were in bad faith and finds that the Complainant has established the third element under 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, <alstomagroup.com>, be transferred to the Complainant.

/Martin Michaus Romero/

Martin Michaus Romero

Sole Panelist

Date: November 16, 2023