

ADMINISTRATIVE PANEL DECISION

Alstom v. SMITH WILEY

Case No. D2024-4971

1. The Parties

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

The Respondent is SMITH WILEY, Ireland.

2. The Domain Name and Registrar

The disputed domain name <alstom.fun> was registered with West263 International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on December 11, 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 December 16, 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 December 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 7, 2024.

The Center appointed Aaron Newell as the sole panelist in this matter on January 14, 2025. 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 states that it is a global leader in the world of transport infrastructures, that it employs over 80,000 professionals in more than 63 countries (including over 6,000 people in the United Kingdom and Ireland), that in 2022 and 2023 its order intake reached EUR 20.7 billion and its sales reached EUR 16.5 billion, that it has been trading in Ireland (the jurisdiction of the Respondent) and the United Kingdom for over a century, and that it is presently the United Kingdom and Ireland's leading supplier of new trains and train services having built the entire Dublin Luas fleet (this being the tram service in Dublin).

The Complainant provides evidence that it owns a number of trademark registrations for or containing ALSTOM, including European Union registration No. 00948729, in classes 6, 7, 9, 11, 12, 16, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42, filed on September 30, 1998, and registered on August 8, 2001. The Complainant also owns a significant number of domain name registrations that feature its ALSTOM trademark, the earliest in evidence having been registered in 1998 (i.e., <alstom.com>).

The disputed domain name was created on November 8, 2024. According to the Complaint, and as verified by the Panel at the time of writing, the disputed domain name is used to load a page that contains a general offer to sell the disputed domain name for USD 300 and invites alternative offers.

The Panel understands from material included in the Complaint that on November 13, 2024, the Complainant contacted the Registrar for the disputed domain name and requested that the Registrar transfer the disputed domain name into its control. The Registrar declined the Complainant's request but forwarded the Complainant's correspondence to the Respondent. The Respondent did not engage with the Complainant's request, and no other response or communication was forthcoming from the Respondent up to the time of filing the Complaint on December 6, 2024.

The Panel is unaware of any communications between the Parties since this time.

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 contends that:

- i) the disputed domain name is identical or confusingly similar to its registered ALSTOM trademark because the disputed domain name reproduces the trademark "wholly and identically" and the ALSTOM trademark "will be all the more recognizable since it is simply associated with the gTLD '.fun'" and, consequently, "will directly recognize the Complainant's trademarks in the disputed domain name and will believe that they have been registered by [the Complainant]";
- ii) the Respondent has no rights or legitimate interest in the disputed domain name because it is not affiliated with the Complainant, is not "authorized, licensed or permitted" by the Complainant to register or use a domain name incorporating [the Complainant's] trademarks, has not filed and/or registered any trademarks related to the sign ALSTOM, is not commonly known as ALSTOM, has not used the disputed domain name in a way that could give rise to rights or legitimate interests, and was given an opportunity to communicate any rights or legitimate interests to the Complainant prior to the Complaint being filed but failed to do so;
- iii) the Respondent registered and used the disputed domain name in bad faith because the Complainant's ALSTOM trademark is well-known, the disputed domain name was registered by the Respondent long after the registration of the Complainant's relevant trademarks, the Respondent failed to

communicate with the Complainant, there is no evidence of any relevant bona fide offering of goods or services by the Respondent, and the Respondent concealed its identity as registrant by using an anonymization service.

B. Respondent

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

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 it 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 response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely 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 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 Complainant's ALSTOM trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The applicable Top-Level Domain ("TLD") in a domain name (in this case ".fun") is viewed as a standard registration requirement and as such is normally disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, 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. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In the context of an identical disputed domain name incorporating a coined trademark, "parked" pages featuring generalized offers to sell the domain name in question do not normally amount to a bona fide offering of goods or services or legitimate noncommercial or fair use within the meaning of paragraph 4(c) 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.

In the present case, the Panel notes that the Respondent has used the disputed domain name (identical to the Complainant's trademark) to load a generic parking page offering the disputed domain name for sale for USD 300 and soliciting other monetary offers.

Noting the significant reputation of the Complainant's trademark, the Panel finds that the Respondent was not engaging in innocent speculation when registering the disputed domain name. Rather, the Panel finds that the Respondent's intent in registering the disputed domain name was to target the Complainant and to profit from or otherwise exploit the Complainant's well-known and distinctive trademark. In these circumstances, panels frequently find that the disputed domain name was registered and used in bad faith. [WIPO Overview 3.0](#), section 3.1.1.

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

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.fun> be transferred to the Complainant.

/Aaron Newell/

Aaron Newell

Sole Panelist

Date: January 28, 2025