

ADMINISTRATIVE PANEL DECISION

Alstom v. obi okafor
Case No. D2023-0718

1. The Parties

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

The Respondent is obi okafor, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <alstomsgroups.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 16, 2023. On February 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 February 22, 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 February 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 16, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on March 28, 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 corporation created in 1928 and presently exploits power generation, power transmission and rail infrastructure, employing 36,000 professionals in more than 60 countries.

The Complainant's conglomerate extends to other companies that likely incorporate the ALSTOM name and trademark in their denominations, such as: Alstom Transport Technologies, Alstom Transport, Alstom Power, Alstom Hydro, Alstom Grid, Alstom Holdings, Alstom Management, amongst others.

The Complainant is the owner of several domain name registrations which redirect Internet users to the Complainant's group website available at <alstom.com> (which was registered on January 20, 1998).

The Complainant is the owner numerous trademark registrations worldwide incorporating ALSTOM, amongst which:

- European Union trademark registration No. 000948729 for the word mark ALSTOM, filed on September 30, 1998, registered on August 08, 2001, subsequently renewed, in classes 01, 02, 06, 07, 09, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42;
- International trademark registration No. 706292 for the word and device mark ALSTOM, registered on August 28, 1998, subsequently renewed, in classes 01, 02, 04, 06, 07, 09, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40, 41, and 42;
- Nigeria trademark registration No. F/TM/O/2018/140662 for the word mark ALSTOM, filed on December 04, 2018, in class 37; and
- Nigeria trademark registration No. F/TM/O/2018/140665 for the word mark ALSTOM, filed on December 04, 2018, in class 39.

The disputed domain name was registered on November 8, 2022, and was used in connection with fraudulent email messages impersonating the Complainant's employee (Annex 8 to the Complaint). Currently, the disputed domain name fails to resolve to an active website.

The Complainant addressed on December 29, 2022, a letter to the Registrar requesting it to cut off access to all content accessible at the disputed domain name as well as to provide the Respondent's contact information so as to attempt to settle the matter quickly and amicably as well as a claim to the Respondent, copying in the Registrar, via the email address provided in the Whois extract. Despite reminders sent on January 17, 2023 and February 3, 2023, no response was received (Annex 7 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant asserts to be part of the Alstom Group, a global leader in world of power generation, power transmission and rail infrastructure, employing 36000 professionals in more than 60 countries, also developing and marketing a complete range of systems, equipment, and services in the railway industry.

In Nigeria, where the Respondent is located, the Complainant asserts to have been present since the year 2000, having actively contributing to the development of urban transport in the country since 2010, including the development, construction and implementation of the Lagos Blue Line Metro.

The Complainant further sustains that the goods and services it produces and provides are, therefore, well-known throughout the world.

According to the Complainant, the disputed domain name was created on November 11, 2022, by a person using a privacy service, having further provided what appears to be false contact information in order to try to avoid being contacted, such as the name of a famous basketball player and a wrong address, thus making it impossible to reach the Respondent at the address indicated at the Whois information.

The Complainant claims that, on January 20, 2023, after the Respondent had received ALSTOM's claims, its Internet security team detected a credulous email being sent via the disputed domain name, impersonating ALSTOM's Indirect Procurement Manager and sent to one of the Complainant's clients regarding an outstanding payment (Annex 8 to the Complaint).

The Complainant therefore contends that the disputed domain name is confusingly similar to its ALSTOM well-known trademark, being irrelevant the addition of "sgroups". Moreover, the Complainant states that the disputed domain name only differs by two letters "s" from the <alstomgroup.com> domain name which is also held by the Complainant and which is used to support the email addresses of all employees of the Complainant's group.

As to the absence of rights or legitimate interests, the Complainant argues that the Respondent:

- i. is not affiliated in any way to the Complainant, not having the Complainant authorized, licensed or permitted the Respondent to register or use a domain name incorporating its trademark;
- ii. has not applied for or obtained any trademark registrations related to the Alstom sign;
- iii. is not commonly known by the disputed domain name; and
- iv. has not used the disputed domain name in connection with a *bona fide* offering of goods and services (paragraph 4(c)(i) of the Policy), given the fraudulent emails sent impersonating the Complainant.

As to bad faith registration and use of the disputed domain name, the Complainant asserts that the Respondent intentionally registered the disputed domain name that violates the Complainant's well-known ALSTOM trademark so as to falsely impersonate the Complainant by way of sending emails to the Complainant's customers in order to try and obtain the payment of invoices due to the Complainant. Furthermore, the Respondent has not replied to the cease-and-desist letter set prior to this proceeding and has taken steps to conceal his true identity, having also provided false contact information, what further corroborate the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name:

- (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 has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present so as to have the disputed domain name transferred, according to the Policy.

A. Identical or Confusingly Similar

The Complainant has established rights in the ALSTOM trademark.

The disputed domain name <alstomsgroups.com> incorporates the Complainant's trademark *in totum* and is thus confusingly similar therewith, and the addition of "sgroups" does not avoid a finding of confusing similarity under the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate a respondent's rights to or legitimate interests in a domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it has not acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make at least a *prima facie* case against the Respondent under the second UDRP element.

In that sense, and according to the evidence submitted, the Complainant has made a *prima facie* case against the Respondent, which has not been commonly known by the disputed domain name and neither is affiliated in any way to the Complainant, not having the Complainant authorized, licensed or permitted the Respondent to register or use a domain name incorporating its trademark.

According to the evidence submitted (Annex 8 to the Complaint), the Respondent has used the disputed domain name to intentionally mislead a Complainant's customers by sending fraudulent emails impersonating the Complainant and trying to obtain the payment of an invoice due to the Complainant, which cannot be considered as a *bona fide* offering of goods or services under the Policy. See [WIPO Overview 3.0](#), section 2.13.

The Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a

likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found in view of the use of the disputed domain name seeking to impersonate the Complainant for fraudulent purposes, as seen above.

Other factors that corroborate the Panel's finding of bad faith of the Respondent are:

- a. the use of information pertaining to an employee of the Complainant in the fraudulent emails messages sent using the disputed domain name;
- b. the absence of a formal Response by the Respondent;
- c. the absence of a reply to the cease-and-desist letter sent prior to this procedure;
- d. the choice to retain a privacy protection service so as to conceal the Respondent's identity in furtherance of a fraud; and
- e. the indication of what appears to be false or incomplete contact details provided in Whois information relating to the disputed domain name, Written Notice not being deliverable to it by courier (the Center's Written Notice communications were unable to be delivered – the courier reporting that the related contact details were a "bad address", in both cases, for obi okafor, and for Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf).

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name pursuant to paragraph 4(b)(iv) 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 <alstomsgroups.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: April 11, 2023