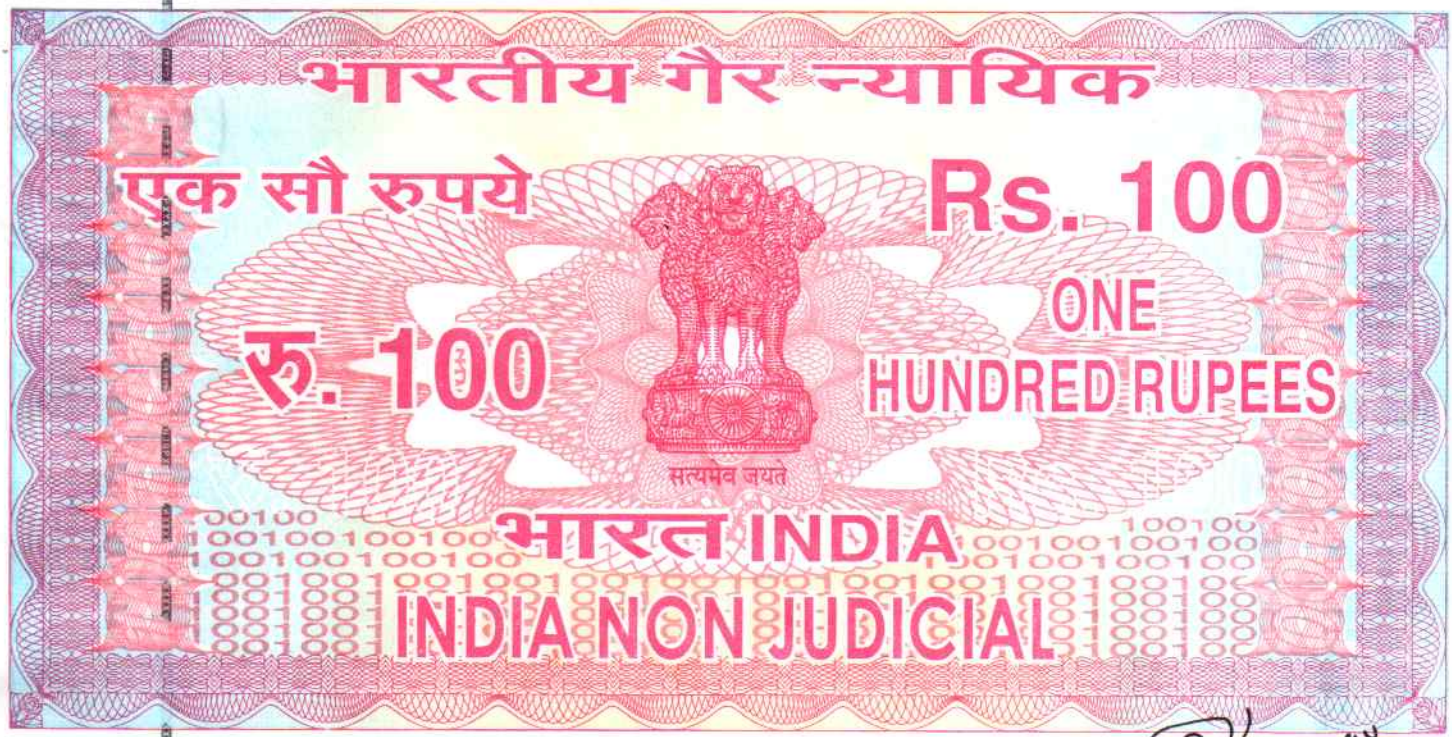

ఆంధ్రప్రదేశ్ आन्ध्र प्रदेश ANDHRA PRADESH

Sl.No : 2928 Date : 16/11/2020

Sold to : Vedula Gopinath S/o late V.K Chennulu

For Whom : Self

CP 315891
B.ARUN KUMAR
LICENCED STAMP VENDOR
L.No.03-13-002/2000, R.L.No.03-13-005/2018
27-249, Vepagunta, Visakhapatnam-47
Cell : 9393174422

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

.IN DOMAIN NAME DISPUTE POLICY (INDRP)

Dr. Vedula Gopinath , Sole Arbitrator

Arbitration Award No. INDRP/1310 Dated 12th February, 2021

In the matter of Arbitration between:

M/s. ALSTOM,
48 Rue Albert Dhalenne,
93400 Saint-Quen
FRANCE ... Complainant

And

M/s APEX CONSULTING,
No. 33, Tongji East Road,
Chancheng District,
FoShan City,
Guangdong Provcince-528000,
Hong Kong, CHINA. .... Respondent

ARBITRAL TRIBUNAL * SOLE ARBITRATOR * DR. VEDULA GOPINATH

I. *THE PARTIES* :

a. **The Complainant** - ALSTOM Authorized representatives in these Administrative proceedings are:

Mr. Raja Pannir Selvam,
Selvam and Selvam,
Old No. 9, Valliammal Street,
Kilpauk,
CHENNAI – 600 010
Tamil Nadu, India.
Telephone : +91 44 43532502
Email:raja@selvams.com

A copy of the Power of Attorney has been furnished by the Complainant.

b. **The Respondent:**

Name : M/s. APEX CONSULTING,
Address : No. 33, Tongi East Road,
Chancheng District,
FoShan City,
Guangdong Province 528000
HONG KONG,
CHINA.
Email : sunong@live.com

The information of Respondent is given in Annexure-A of the Complaint.

II. DISPUTED DOMAIN NAME & REGISTRY:

a) The following Domain name is the subject of this Complaint - alstomgroup.in

b) The Registry is the National Internet Exchange of India (henceforth referred to as NIXI)

c) The Sponsoring Registrar with whom the domain name is Registered is indicated as:

Dynadot LLC

ARBITRAL TRIBUNAL SOLE ARBITRATOR DR. VEDULA GOPINATH

210 S Ellsworth Ave #345
San Mateo, California 94401 USA

III. Procedural History / Background:

Serial Number	Date	Description
1	31-12-2020	Consent of the Sole Arbitrator along with declaration was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
2	01-01-2021	The .IN REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
3	01-01-2021	.IN REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexures was sent to Respondent and all concerned.
4	01-01-2021	Notice of arbitration was sent to all concerned by the arbitrator.
5	02-01-2021	Notice was sent by Arbitrator to the Respondent by email directing the respondent to file their response within 10 days, marking a copy of the same to the Complainant's representative and .IN Registry.
6	12-01-2021	Second opportunity was given to Respondent to file their response to the Complaint.

III. DISPUTE :

The Complainant came to notice that the respondent had registered the disputed domain name www.alstomgroup.in without authorization of any kind whatsoever. The disputed domain, which is parked at this juncture, is identical to the famous ALSTOM trademarks and could easily be confused with the same. The claimant alleges that they are not connected or affiliated with the respondent. The Complainant confirms that the Respondent has no interest in the disputed domain name or the mark except for allegedly misleading the customers and infringing the ALSTOM trademarks by adoption and registration of the identical domain with simply a different Top Level

Domain (TLD) code. The complainant further alleges the mala fide intent of the respondent to ride on the complainant's reputation and misusing the ALSTOM Trademarks. It is noted that the complainant's approached the respondent cautioning of their unauthorized use of their trademark. In this connection, the respondent wrote an email dated 15th October, 2020 submitted as Annexure E of the complaint duly **admitting their infringement of the ALSTOM trademark** and offered to sell the disputed domain name for 2890 Euros.

IV. COMPLAINANT'S BUSINESS ACTIVITIES :

1. The Complainant is **Alstom** a Company existing under the Laws of France, having the address 48 Rue Albert Dhalenne, 93400 Saint-Quen, France. Alstom is a highly reputed conglomerate company dealing with high power locomotives, electric trains, metro projects among others and having strong presence in India through its two entities.
2. In India, Alstom is having number of projects having a sizeable manpower and business operations which are partly funded by world bank. Alstom as a global organization has presence in about 60 countries and is a renowned player in the transport systems industry. Further, the Complainant employs over 36,000 individuals from all over the world, who have been working in over 100 sites in various countries across the world. The Complainant is recognized all over the world for its high-quality goods and services.
3. The Complainant is the Registered Proprietor of the ALSTOM Trademarks in India and Internationally, some details are given hereunder :

India:

- Application No. 819279 registered from July 14, 2005
- Indian designation of IR No. 1528691 for goods and services in classes 9, 12, 37 and 42

Hong Kong:

ARBITRAL TRIBUNAL SOLE ARBITRATOR B. VEDULA GOPINATH

- Hong Kong Registration No. 304757987 for goods and services in classes 9, 12, 37 and 42.

OTHER JURISDICTIONS

ALSTOM also holds numerous registrations that comprise the word "ALSTOM" in various jurisdictions around the world, including the following trademark registrations:

- International Registration n° 706292 , for products and services in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40 and 42;
- International Registration n° 706360 , for products and services in classes 1, 2, 4, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35, 36, 37, 38, 39, 40 and 42;
- International Registration No.706292 "ALSTOM" filed on August 28, 1998, duly renewed, covering goods and services in 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 Austria, Benelux, China, Germany, Egypt, Democratic People's Republic of Korea, Morocco, Portugal, Russian Federation, Viet Nam, United Kingdom, Norway, Singapore, Thailand.
- International Registration No.706360 filed on August 28, 1998, duly renewed, covering goods and services in 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 Austria, Benelux, China, Germany, Egypt, Democratic People's Republic of Korea, Morocco, Portugal, Russian Federation, Viet Nam, United Kingdom, Norway, Singapore, Thailand.
- European Union Trademark Registration No. 948.729 "ALSTOM" filed on September 30, 1998, duly renewed, in classes 1, 2, 6, 7, 9, 11, 12, 13, 16, 17, 19, 24, 35,36, 37, 38, 39, 40, 41 and 42;
- UNITED STATES OF AMERICA Application No. 75565686 registered from November 2, 2004 in classes 35, 37, 39, 40, 41 & 42.
- Application No. 85250501 registered from July 22, 2014.

4. Copies of the Complainant's trademark registrations are attached as **Annexure D.** Complainant confirmed that all the Trade Marks mentioned in the Complaint are valid.

5. It is pertinent to note that the Complainant had, adopted variants of ALSTOM marks in India since 1990 and even earlier globally. Alstom has been using the ALSTOM marks extensively and continually for its products and services in India and globally. Due to the high reputation of the Complainant around the world, the word "ALSTOM" is associated solely with the Complainant and no one else. As aforesaid above, the Complainant has already registered the domain alstom.com which features extensive information about the products and services offered by the Complainant.

ARBITRATION TRIBUNAL SOLE ARBITRATOR DR. VEDULA GOPINATH

6. The Complainant is also the registrant of numerous domain names under various generic and country code TLDs that reflect its trademarks, including those with the words "alstomgroup". Some of the domains registered by the Complainant are:-<alstomgroup.com> registered since November 14, 2000; <alstomgroup.net> registered since June 2, 2017; <alstomgroup.fr> registered since June 2, 2017; <alstomgroup.eu>registered since November 24, 2018; <alstom.com> registered since January 20, 1998; <alsthom.com> registered since June 20, 2000;

<alstom.ru> registered since April 28, 2009;

<alstom.cn> registered since July 7, 2004;

V. Parties' Contentions :

COMPLAINANT:

(i) The complainant has alleged that domain name of the respondent is identical and confusingly similar to their trademark in which it has rights.

(ii) The complainant has alleged that respondent does not have rights or legitimate interest in respect of domain name and also the respondent has no registered trademark rights of the said domain name. The complainant has alleged that respondent clearly intends to mislead potential customers of the complainant to its website.

(iii) The complainant has further alleged that the domain name is registered by the respondent and is used by him in bad faith.

(iv) The complainant has submitted that its trade marks are well known in India. The complainant has further alleged that the respondent's intention is not to act in good faith but has got registered the disputed Domain name in bad faith.

RESPONDENT:

I. The Respondent in spite of notices dated 2nd January 2021 and 12th January 2021 failed to submit any response.

VI: DISCUSSION AND FINDINGS/REASONING

(i) .IN Domain Name Dispute Resolution Policy (INDRP)

The Arbitral Tribunal after examination of the matter in detail arrived the following conclusion of Complainant's compliance of INDRP policy.

ARBITRAL TRIBUNAL SOLE ARBITRATOR D.VEDULA GOPINATH

a) (4a)The Respondent's domain name(alstomgroup.in) is confusingly similar to the trademark of the Complainant
b) (4b)The Respondent has no rights or legitimate interests in respect of the domain name (alstomgroup.in)
c) (4c) The respondent' domain name has been registered in bad faith.
d) Further pursuant to paragraphs 6 and 7 of INDRP policy, the Respondent has no legitimate interests and the same is alleged to have been used in bad faith.

(ii) The Respondent had admitted in a very clear terms that he has infringed the Trade mark ALSTOM which shows that the matter needs no further examination and the matter can be decided in favor of the complainant without any hesitation.

(iii) To a query, as to the reasons for non-acceptance of transfer of domain name from the Respondent to Complainant for a cost, the Complainant opines that it would amount to encouraging rewarding mala fide behavior of infringing the complainant's intellectual property. The Arbitral Tribunal appreciates the stand taken by the Complainant in refusing the offer of Respondent and their preference of approaching the .INDRP forum for redressal.

(iv) Under Order 8 Rule 10 of the Code of Civil Procedure, the arbitrator is empowered to pronounce judgment against Respondent or to make such order in relation to the Complaint as it thinks fit in the event, the Respondent fails to file its reply to the Complaint in the prescribed period of time as fixed.

(v) The respondent quoted precedents of various cases from INDRP and WIPO which the arbitral tribunal has taken a positive note of the same.

(vi) In view of the foregoing discussion, the arbitral tribunal arrives at a logical conclusion of accepting the prayer of the complainant

VII: DECISION

I direct that that the Domain name "alstomgroup.in" be transferred in favor of the Complainant by Registry.

National Internet Exchange of India are advised to take incidental or ancillary action involved in the transfer of the Domain Name as directed.

Visakhapatnam-AP India

Dated 12th Feb. 2021

Dr. Vedula Gopinath

Sole Arbitrator

ARBITRAL TRIBUNAL
Dr. VEDULA GOPINATH
SOLE ARIBITRATOR