Decision for dispute CAC-UDRP-106635

Case number	CAC-UDRP-106635
Time of filing	2024-07-04 13:06:58
Domain names	steel-tk.com, kr-steel.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	thyssenkrupp AG- thyssenkrupp Intellectual Property GmbH

Respondent

Name	Ding Zhu Zhang Ding Zhu Zhang

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is a recognized German industrial engineering and steel production multinational conglomerate company. The Complainant is the result of a merger, completed in 1999, of two German steel companies, Thyssen AG founded in 1891 and Krupp founded in 1811; it has its operational headquarters in Duisburg and Essen, Germany.

The Complainant has an extensive global portfolio of trademarks, including the following:

- International Trademark for tk (word mark), Reg. No. 1541703, registered on March 20, 2020, in international classes (“ICs”) 1, 6, 7, 9, 11, 12, 17, 35, 37, 40 and 42, and in force until March 20, 2030;

- EUIPO Trademark for tk Steel (word mark), Reg. No. 018985582, filed on February 12, 2024, registered on June 18, 2024, in ICs 6, 40 and 42, and in force until February 12, 2034;

- German Trademark for tk Steel (word mark), Reg. No. 302023118222, filed on November 1, 2023, registered on February 5, 2024, in ICs 6, 40 and 42, and in force until November 1, 2033.

- EUIPO Trademark for THYSSENKRUPP (word mark), Reg. No. 014552343, filed on September 11, 2015, registered on April 20, 2016, in ICs 1, 4, 6, 7, 9, 11, 12, 17, 19, 35, 36, 37, 38, 39, 40, 41 and 42, and in force until September 11, 2025;

- International Trademark for KRUPP (word mark), Reg. No. 262641, registered on November 28, 1962, in ICs 1, 6, 7, 8, 9, 10, 11, 12, and 19, and in force until November 28, 2032;

- Chinese Trademark for KRUPP (word mark), Reg. No. 32418536, registered on August 14, 2020, in IC 6, and in force until August 13, 2030.

FACTUAL BACKGROUND

The Complainant is an international industrial and technology company employing around 100,000 people and a revenue of more

than 38 billion EUR according with its fiscal report of 2022/2023. The Complainant it is one of the world's largest steel producers and was ranked tenth largest worldwide by revenue in 2015. Since October 1, 2023, the business activities have been bundled into five segments: Automotive Technology, Decarbon Technologies, Materials Services, Steel Europe and Marine Systems.

Around 4,000 employees work in research and development at 75 locations all over the world, mainly in the fields of climate protection, the energy transition, digital transformation in the industry and mobility of the future. The Complainant's shares are traded on Frankfurt Stock Exchange (symbol: TKA) and as American depositary receipts (symbol: TKAMY) in the USA.

The Complainant also owns a large domain name portfolio based on its trademark TK as follows: <thyssenkrupp.com> registered on December 5, 1996; <tkaerospace.com> registered on December 4, 2007; <tkindustrials.mx> registered on October 8, 2018; <tk-ab.com> registered on February 11, 2021; <tk-ab.de> registered on February 11, 2021.

The Panel notes that Complainant's business activity and trademarks has been recognized as famous or widely known by previous panelists, as in e.g.: thyssenkrupp AG v. (chen cheng), (shan dong tai gang jin yu gang tie ji tuan you xian gong si), WIPO Case No. D2023-1333; ThyssenKrupp AG v. (zhuo yang gang tie shang hai you xian gong si)., WIPO Case No. D2023-0881; ThyssenKrupp AG v. zhuo yang gang tie shang hai you xian gong si, CAC-UDRP Case No. 106290; ThyssenKrupp AG v. zhuo yang gang tie shang hai you xian gong si, CAC-UDRP Case No. 106233.

The Panel also notes that according to the evidence the letters "tk" are associated with ThyssenKrupp, which is the result of the combination of the two company's founders being Thyssen AG and Krupp AG, with no specific meaning in any language.

The disputed domain name <**steel-tk.com**> was registered on **June 11, 2024,** and resolves to an active website for steel products and services, that mimics the official website of Complainant.

The disputed domain name **<kr-steel.com>** was registered on **April 23, 2024**. According to the evidence submitted by the Complainant the disputed domain name resolved to an active website that mimics the official website of Complainant and includes mention of Complainant's trademarks THYSSENKRUPP and KRUPP at the time of the filing of the Amended Complaint. By the time of this Decision, it resolves to a website message of potential malicious content.

PARTIES CONTENTIONS

Complainant Contentions:

The Complainant asserts that enjoys trademark protection for the word mark "tk"; "TK Steel"; "tks" and "krupp" by means of several international and national trademark registrations. The Complainant asserts that has maintained a strong online presence through its official website 'www.thyssenkrupp.com', registered on December 5, 1996. The Complainant contends that the disputed domain name <**steel-tk.com**> composed by the word "steel" and the letters "tk", is almost similar to the Complainant's trademark TK STEEL which are in reversed order, citing Istanbul Menkul Kiymetler Borsasi-IMKB (Istanbul Stock Exchange-ISE) v. Emir Ulu, WIPO Case No. D2013-0328; that the disputed domain name <**kr-steel.com**> composed by the letters "kr" and the word "steel" is confusingly similar to the Complainant's trademarks, since the letters "kr" in addition to the word "steel" can be interpreted as an abbreviation of the Complainant's well-known name and trademark in the steel industry as KRUPP.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain names, given that the Respondent has registered the disputed domain names based on the Complainant's well-known trademarks at least in order to benefit from the Complainant's reputation, which doesn't constitute bona fide offering of goods and services nor a legitimate non-commercial fair use pursuant to paragraph 4(c)(i) and 4(c)(iii) of the Policy.

The Complainant contends that the disputed domain names have been registered and are being used in bad faith, given its composition and use, which both resolve to nearly identical websites regarding layout, design and content of Complainant's official website which constitutes bad faith under paragraph 4(b)(iv) of the Policy; the Complainant also contends that Respondent is using the disputed domain names to engage in phishing activity.

Response

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

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of

the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

Language of Proceedings

The Complainant requested English as the language of the proceedings, in accordance with Paragraph 11 of the UDRP Rules, where unless otherwise agreed by the parties, the language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

On July 5, 2024 (<steel-tk.com>), and July 9, 2024 (<kr-steel.com>), the Registrar Verification confirmed English as the Language of the Registration Agreement of the disputed domain names.

Additionally, considering the language of the disputed domain names, the content of the websites, and the communications provided from 'foreign-trade@ssteel-fin.com' linked to Respondent's websites, all of it, done in English, this Panel concludes that nothing is preventing the Registrant to understand the English language, despite of being in China. Therefore, English is the Language of the present Case, and also of its Decision.

Addition of a Domain Name <kr-steel.com> prior to complaint notification

On July 9, 2024, the Complainant based on the Registrar Verification's results, requested the addition of **<kr-steel.com>** to the present Complaint.

Considering the timing of the Complainant's request, the evidence submitted where the same Respondent (and identical contact details) of the disputed domain names has been confirmed by the concerned registrar as Ding Zhu Zhang; also given the almost identical content of each disputed domain names' website and the connection between the two to engage in phishing activity, the Panel, based on paragraph 10 of the Rules, agrees with the CAC's procedure and confirms the Complainant's request. See WIPO Overview 3.0, section 4.12.1.

PRINCIPAL REASONS FOR THE DECISION

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

(i) the disputed domain name is identical or confusingly similar to a 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.

The Panel will consider each of these requirements in turn.

1. **Identical or Confusingly Similar**

The Complainant has provided sufficient evidence of having trademark rights over the terms TK STEEL, TK, THYSSENKRUPP and KRUPP.

The disputed domain name <steel-tk.com> is the result of the exact incorporation of Complainant's trademark TK STEEL in reverse order, alteration that will not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark (see thyssenkrupp AG v. zhuo yang gang tie shang hai you xian gong si, CAC-UDRP Case No. 106290 and WIPO Overview 3.0, section 1.7).

Regarding the disputed domain name <kr-steel.com> this Panel perceives it more as an act of typosquatting based on Complainant's trademarks TK STEEL and/or TK (plus "steel" as an additional term), than as the abbreviation of the Complainant's trademark KRUPP, nevertheless under any analysis, Complainant's trademark is recognizable within the disputed domain name, and such alteration will not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks. WIPO Overview 3.0, section 1.7.

In relation to the gTLD ".com", it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration. See WIPO Overview 3.0, section 1.11.1.

Therefore, the Complainant has satisfied the first element of the Policy.

2. **Rights or Legitimate Interests**

According to the submitted evidence and considering the absence of any communication or Response by the Respondent, meaning of any relevant evidence, this Panel determines that the Complainant has established its prima facie case in relation to paragraph 4(a)(ii) of the Policy.

The Respondent purposely selected an international successful company as Thyssenkrupp AG, and its well-known trademarks to build almost identical websites to the Complainant's official one, to engage in phishing activity, which does not constitute a use in connection with a bona fide offering of goods and services, nor a legitimate noncommercial or fair use of the disputed domain names, as set out in paragraph 4(c)(i) and 4(c)(iii) of the Policy and as it has been well established by previous panelists "it can never confer rights or legitimate interests on a respondent". See WIPO Overview 3.0, section 2.13.1.

Therefore, the Complainant has satisfied the second element of the Policy.

3. **Registered and Used in Bad Faith**

The Respondent registered the disputed domain names very well after the Complainant acquired its trademark rights over any of the trademarks described along this Decision. Having reviewed the records, this Panel, is ready to accept that the Respondent was deeply aware about the Complainant's business activity, and of its trademarks, up to the point of performing an almost intricated selection of characters to compose the disputed domain names, at the moment of its registrations. See WIPO Overview 3.0, section 3.2.2.

In relation to the bad faith use, according with the submitted evidence, the disputed domain names resolve to websites that mimic the Complainant's official one; additionally, the Complainant has provided consistent evidence where the Respondent is using the disputed domain names to engage in phishing activity from a common e-mail displayed in both websites 'foreign-trade@ssteel-fin.com', which constitutes an illegal activity established by multiple panelists as bad faith use under the Policy. See WIPO Overview 3.0, section 3.4.

Then, this Panel concludes that, the disputed domain names have been registered and are being used in bad faith, therefore the Complainant has satisfied the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **steel-tk.com**: Transferred
2. **kr-steel.com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2024-08-05

Publish the Decision