Decision for dispute CAC-UDRP-106673

Case number	CAC-UDRP-106673
Time of filing	2024-07-09 10:32:02
Domain names	krones.top

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Krones AG

Complainant representative

Organization	Grünecker Patent- und Rechtsanwälte PartG mbB

Respondent

Organization	Changzhou Jerry Packaging Technology Co., Ltd.

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 name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of various trademark registrations for KRONES, including the following:

German trademark registration No. 744834, registered on January 19, 1961;

German trademark registration No. 889001, registered on September 22, 1971;

German trademark registration No. 39743648, registered on November 18, 1997;

International trademark registration No. 279233, registered on January 31, 1964; and

Chinese trademark registration No. 175220, registered on April 15, 1983.

FACTUAL BACKGROUND

The Complainant, headquartered in Germany, is a manufacturer of machines and lines for various industries, including the beverage, food, chemicals, plastic processing and pharmaceutical industries. It is one of the world’s leading manufacturer of lines for filling

beverages in plastic and glass bottles or beverage cans. The company designs and implements individual machines and complete production lines.

Founded in 1951, the Complainant has since been selling its packaging and bottling machines under the KRONES brand. It now has around 18,500 employees worldwide across more than 100 sites. Its revenue in 2023 was 4.72 billion Euros.

The Complainant owns and operates its official domain name <krones.com>, registered on February 9, 2000.

The Respondent is Changzhou Jerry Packaging Technology Co., Ltd. located in Changzhou City, Jiangsu Province.

The Respondent registered the disputed domain name on March 23, 2023. As at the time of filing of the Complaint, the disputed domain name resolved to a website that offers goods and/or services that compete with the Complainant's own offerings.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical 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 name (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 name has been registered and is 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 THE PROCEEDINGS

The language of the registration agreement is Chinese.

The Complainant has requested that the language of proceedings be English because the website to which the disputed domain name resolved was in English. This shows that the Respondent is familiar with the English language.

Having considered all circumstances of the case, the Panel has decided that it would be fair and equitable to all parties to have the language of the proceedings be English for the reason stated by the Complainant. Furthermore, the Respondent did not respond on the issue of the language to the proceedings and did not object to the Complainant's request.

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.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trade mark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns registered trademark rights in the word KRONES.

The disputed domain name contains the entirety of the Complainant's KRONES trade mark with no alterations. It is therefore identical to the KRONES trade mark under the Policy.

The disputed domain name comprises the Complainant's KRONES trade mark and the generic Top-Level Domain ("gTLD") ".top". It is well established that the gTLD is a standard registration requirement and disregarded when considering the issue of identity or confusing similarity between a complainant's trade mark and the domain name in dispute (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ["WIPO Overview 3.0"], section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once a complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Complainant provided evidence that it owns trademark rights in the KRONES mark long before the date that the disputed domain name was registered. There is no evidence that the Respondent was licensed or otherwise authorised by the Complainant to use the Complainant's trade mark or to register the disputed domain name. The Respondent is not affiliated with the Complainant.

The Respondent did not submit a Response and did not provide any explanation or evidence to show it has rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's prima facie case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)).

The KRONES mark is a famous mark in the bottling and packaging industry, having been registered and used for many years. The Respondent registered the disputed domain name long after the Complainant registered the KRONES trade mark. It is evident to the Panel that the Respondent knew of the Complainant and its KRONES trade mark and specifically targeted it for bad faith use purposes. The Respondent on its website made various references to itself as "Krones Supply Chain Industries" and "Jiangsu Krones Supply Chain Co., Ltd.". Under the heading "About us", the heading was "KRONES" alone, although the Respondent's company name does not consist of the name "Krones". The website also showed the sign "KRONES" as a company logo. The Respondent offered competing goods on its website, namely machines for the beverage industry and claimed that the company was born in 2012 and that it designs and builds innovative and highly technological machinery for use in relation to cosmetic, pharmaceutical, food and chemical products. These products fall within the Complainant's core field of business.

It is clear that there has been trademark infringement by the Respondent since the KRONES trade mark is protected in China. The Panel is persuaded that the Respondent was fully aware of the Complainant and its trademark rights in KRONES when it registered the disputed domain name and sought to impersonate the Complainant and/or an authorized distributor or Chinese partner in the business, and to divert Internet traffic away from the Complainant's own website.

The Panel therefore concludes that the disputed domain name was registered and used in bad faith.

The Respondent has failed to rebut any of the Complainant's contentions. Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **krones.top**: Transferred

PANELLISTS

Name	Francine Tan

DATE OF PANEL DECISION 2024-08-12

Publish the Decision