Decision for dispute CAC-UDRP-107192

Case number	CAC-UDRP-107192
Time of filing	2025-01-20 14:40:03
Domain names	27uhde.top

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	thyssenkrupp Uhde GmbH
Organization	Thyssenkrupp AG

Complainant representative

Organization	thyssenkrupp AG- thyssenkrupp Intellectual Property GmbH

Respondent

Organization	seo110k 1

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

While the Amended Complaint itself unhelpfully does not set out the trade mark registrations on which the Complainants rely, and a schedule of trade mark registrations produced by the Complainants is only partially supported by evidence, the Complainants jointly own at least the following trade mark registrations consisting of and incorporating the name UHDE, as actually reflected in trade mark register extracts annexed to the Amended Complaint: International trade mark UHDE, registration No 1340849, first registered on 2 June 2016 in international classes 1, 7, 11, 37, 40, 42; and German national trade mark UHDE, registration No 302015062787, first registered on 1 March 2016 in international classes 1, 7, 9, 11, 37, 40, 42. The aforementioned trade mark registrations of the Complainants pre-date the registration of the disputed domain name. While the Complainants assert that the Complainants' trade marks consisting of and incorporating the name UHDE are well-known, and have a strong reputation in Germany and internationally, that assertion is not supported by any evidence and the Panel will therefore not place any reliance on it for the purpose of this decision.

Furthermore, the Complainants also assert that they own a portfolio of domain names consisting of or incorporating the name UHDE, including the domain name <thyssenkrupp-uhde.com>, but again provide no evidence in support of that assertion.

FACTUAL BACKGROUND

The Complainants are in the business of planning, constructing, and servicing chemical plants. Founded in Dortmund in 1921 by Friedrich Uhde, the company initially focused on ammonia production and later expanded into nitric acid, nitrogen fertilizer plants, and high-pressure technology. Acquired by Hoechst in 1952, Uhde diversified into chlor-alkali electrolysis and production facilities for organic chemicals and plastics. In 1996, Hoechst sold Uhde to Krupp, where it was merged with Krupp Koppers in 1997. Following Krupp's merger with Thyssen in 1999, Uhde became part of ThyssenKrupp Technologies. In the 1980s, Uhde focused on international expansion, establishing subsidiaries in Brazil, Australia, Spain and Thailand. By 1994, more than 50% of the workforce was employed in foreign subsidiaries.

The disputed domain name <27uhde.top> was registered on 19 November 2024 and resolves to a page with content that appears to redirect users to pornographic websites in China.

PARTIES CONTENTIONS

The Complainants contend that all three elements of the UDRP have been fulfilled and they therefore request the transfer of the disputed domain name to the Second Complainant, thyssenkrupp Uhde GmbH. No administratively compliant response has been filed.

RIGHTS

The Complainants have, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainants have rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

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

PROCEDURAL FACTORS

On 2 March 2025, rather than simply rejecting the particularly poorly drafted Amended Complaint, the Panel issued a procedural order, inviting the Complainants to address the shortcomings of the Amended Complaint, inter alia, by clarifying the identity of the Complainants and of their Authorised Representatives; by identifying to which of the Complainant entities the Complainants wished the disputed domain name to be transferred in the event that their complaint should be successful; by clarifying and clearly separating their arguments as to the lack of rights or legitimate interest and bad faith registration and use; and by submitting English translations of documents relied upon where the original language of a document was not English. The Complainants responded to the Panel’s procedural directions by non-standard communication dated 6 March 2025, which at least partially addressed these issues. The Panel further directed the payment of the Additional UDRP Fee. No response was received from the Respondent in reply to the Complainants further submissions.

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

With regard to the first UDRP element, the Panel finds that the disputed domain name is confusingly similar to the Complainants’ trade mark UHDE. Indeed, the disputed domain name incorporates the Complainants’ trade mark in its entirety but adds the number "27” as a prefix to the Complainants’ trade mark. The Panel follows in this respect the view established by numerous other decisions that a domain name which wholly incorporates a complainant's registered trade mark may be sufficient to establish confusing similarity for the purposes of the UDRP (see, for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin <porsche-autoparts.com>). The Panel further considers it to be well established that the addition of a generic or descriptive term

does not allow a domain name to avoid confusing similarity with a trade mark (see, for example, WIPO Case No. D2019-2294, Qantas Airways Limited v. Quality Ads <qantaslink.com>; and CAC Case No. 102137, Novartis AG v. Black Roses <novartiscorp.com>). Other panels have previously found that "[W]here the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element" (see WIPO Overview 3.0, section 1.8; and, for example, WIPO Case No. D2023-2542, Merryvale Limited v. tao tao <wwbetway.com>; and WIPO Case No. D2020-0528, Philip Morris Products S.A. v. Rich Ardtea <global-iqos.com>). The Panel considers that the same considerations and rationale apply where a random number is added to a complainant's trade mark. Against this background, the Panel finds that the addition of the number "27" to the Complainants' trade mark is not sufficient to alter the overall impression of the designation as being connected with the Complainants' trade mark, which is clearly recognisable in the disputed domain name, and does not prevent a likelihood of confusion between the disputed domain name and the Complainants, their trade mark and associated domain name. To the contrary, the disputed domain name rather adds to the likelihood of confusion because the addition of the number "27", in conjunction with the Complainants' trade mark UHDE, could be understood to imply that the disputed domain name is linked to and associated with the Complainants and their legitimate business.

With regard to the second UDRP element, there is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. The Panel follows in this regard the view established by numerous other decisions that use of a domain to host a "parked" page comprising commercial links does not represent a bona fide offering of goods or services where such links compete with or capitalise on the reputation and goodwill of the complainant's trade mark, or otherwise mislead Internet users (see, for example, Forum Case No. FA 970871, Vance Int'l, Inc. v. Abend <vancesecurity.com>, <vancesecurity.net>, <vancesecurity.org> (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate non-commercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees); and WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe <mayflowermovers.com> ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.")). The Panel further finds that the Respondent is not affiliated with or related to the Complainants in any way and is neither licensed nor otherwise authorised to make any use of the Complainants' trade mark or to apply for or use the disputed domain name. Additionally, the Whois information for the disputed domain name does not suggest that the Respondent is commonly known by the disputed domain name <27uhde.top>. Past panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name, as is equally not the case here (see, for example, Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii)."). Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, it is reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be confusingly similar to the Complainants' trade mark, and that the Respondent registered the disputed domain name in full knowledge of the Complainants' trade mark. Indeed, if the Respondent had carried out a Google search for the term "Uhde", the search results would have yielded immediate results related to the Complainants, their trade mark, websites, and their connected business and services. Furthermore, the website related to the disputed domain name resolves to a page with commercial links to websites with pornographic content. Based on the decisions of other panels in similar cases, the Panel accepts the Complainants' submission that such use disparages and tarnishes the Complainants' trade mark and exploits the Complainants' trade mark for commercial gain (see, for example, WIPO Case No. D2022-3558, Bel v. <babybelkids.com> ("The Respondent's use of the Domain Name for a website featuring pornographic and gambling content constitutes bad faith as it tarnishes the Complainant's trademark and makes any good faith use of the Domain Name implausible"); and WIPO Case No. D2017-1639, Red Bull GmbH v. Whois Agent, Domain Protection Services, Inc. / esco escortlar, escort sitesi, <redbullescort.com> and <redbulleskort.com> ("The Panel rather believes that the Respondent has registered and used the disputed domain names in bad faith by attempting to trade on the goodwill and reputation of the Complainant's trademark. The Panel shares the Complainant's view that using the disputed domain names as a "jump page" to direct customers to a pornographic page constitutes a strong indication of bad faith registration and use. The Panel is convinced that the Respondent's main purpose is to create a likelihood of confusion among customers and/or to tarnish the Complainant's RED BULL trademark for commercial gain or any other illegitimate benefit")). Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **27uhde.top**: Transferred

PANELLISTS

Name	**Gregor Kleinknecht LLM MCIArb**

DATE OF PANEL DECISION 2025-03-24

Publish the Decision