# Decision for dispute CAC-UDRP-107343

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| Case number | CAC-UDRP-107343 |
| Time of filing | 2025-02-25 13:42:13 |
| Domain names | thyssenkupp.com |

## Case administrator

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

## Complainant

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| Organization | thyssenkrupp AG- thyssenkrupp Intellectual Property GmbH |

## Respondent

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| Name | Turkey Export |

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 has established by evidence that it owns the European Community trademark for THYSSENKRUPP, registered by the European Union Intellectual Property Office, number 014552343, registered on April 20, 2016 and other trademarks for THYSSENKRUPP registered domestically and internationally.

FACTUAL BACKGROUND

The Complainant is a prominent German company engaged in the production of steel and related goods and services. Its name was formed as the result of the amalgamation of two prominent steel companies, Thyssen and Krupp. It is now one of the largest companies in the world. The Complainant owns the abovementioned trademark and many other trademarks for THYSSENKRUPP. It also owns a series of domain names that it has registered, including <thyssenkrupp.com> that it uses in its business and to market its goods and services under the THYSSENKRUPP trademark. The Respondent has registered the domain name <thyssenkupp.com> (“the disputed domain name”) on January 26, 2025 which embodies the THYSSENKRUPP trademark with the deletion of the letter "r" and has caused it to resolve to a website where it has been used to perpetrate a phishing scheme targeting a client of the Complainant. The Complainant is concerned at this infringement of its trademark and the use of the disputed domain name and also at the potential for further abuse if the disputed domain name remains in the ownership of the Respondent. Accordingly, the Complainant has instituted this proceeding to have the disputed domain name transferred to itself.

PARTIES CONTENTIONS

Contentions of the parties

Complainant

The disputed domain name is virtually identical to the THYSSENKRUPP trademark, the only change being the deletion of the latter "r” from the trademark, which is typosquatting by the Respondent. The disputed domain name is therefore confusingly similar to the

trademark, as internet users would see it as invoking the Complainant's THYSSENKRUPP trademark and may well come to the conclusion that it is a genuine and official domain name of the Complainant.

The presence of the generic Top Level Domain ".com" cannot negate a finding of confusing similarity as all domain names require such an extension.

The Respondent has no rights or legitimate interests in the disputed domain name. That is so because:

- the Respondent has not used the disputed domain name for a bona fide offering of goods or services; and
- the Respondent has not made a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to divert internet users misleadingly or to tarnish the THYSSENKRUPP trademark; and
- there is no other ground which could conceivably confer on the Respondent a right or legitimate interest in the disputed domain name.

The Respondent has registered and used the disputed domain name in bad faith. That is so because:

- the Respondent has used the disputed domain name to send a fraudulent invoice to an individual purporting to be an official invoice from the Complainant which it is not;
- the Respondent had actual knowledge of the Complainant at the time it registered the disputed domain name;
- the registration of the disputed domain name constitutes an attempt to derive unjustified commercial benefit on the back of the Complainant's trademark rights;
- the Respondent had no prior rights in the disputed domain name and therefore had no reason for registering it, other than to trade on the Complainant's reputation and economic success, which constitutes bad faith;
- the disputed domain name misleads internet users into believing that it is associated with the legitimate business of the Complainant;
- the Respondent has clearly been motivated by the intention to cause confusion between the Complainant and the Respondent by means of misleading internet users and diverting internet traffic away from the Complainant and towards the Respondent.

As the Complainant will have established by the evidence all of the elements it is required to prove under the UDRP, it is entitled to the relief it seeks, namely the transfer of the disputed domain name from the Respondent to the Complainant.

RESPONDENT

The Respondent did not file a Response in this proceeding.

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RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or 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).

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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).

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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).

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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.

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PRINCIPAL REASONS FOR THE DECISION

This is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy ("the Policy" or "UDRP") of the Internet Corporation for Assigned Names and Numbers ("ICANN"), the Rules for Uniform Domain

Name Dispute Resolution Policy ("the Rules") and the CAC Supplemental Rules.

1. Administrative compliance

On February 26, 2025, the CAC advised the parties of the administrative compliance of the Complaint with the Policy and the Rules and that the Complaint was admitted to proceed further in the Administrative Proceeding.

2. Substantive matters

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. In that regard, the Panel also notes that the onus is on the Complainant to make out its case and past UDRP panels have consistently said that a Complainant must show that all three elements of the Policy have been made out before any order can be made to transfer a domain name.

The Panel therefore turns to discuss the various issues that arise for decision on the facts as they are known.

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(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 Panel will therefore deal with each of these requirements in turn.

Identical or Confusingly Similar

The Complainant has adduced evidence that the Panel accepts, that the Complainant is the registered owner of the European Community trademark for THYSSENKRUPP, registered by the European Union Intellectual Property Office, number 014552343, registered on April 20, 2016 and other trademarks for THYSSENKRUPP registered domestically and internationally (collectively "the THYSSENKRUPP" trademark).

It will be seen therefore that the THYSSENKRUPP trademark was registered well before the disputed domain name was registered, which was on January 26, 2025. The Registrar has verified that the Respondent is the registrant of the disputed domain name.

The Panel therefore finds that the Complainant "has" a trademark which the Policy requires it to prove and which it has done.

The Panel next finds that the disputed domain name is confusingly similar to the THYSSENKRUPP trademark for the following reasons.

First, the disputed domain name includes virtually the entirety of the THYSSENKRUPP trademark. Accordingly, it is clear that the disputed domain name has been inspired by and is an attempt to copy the THYSSENKRUPP trademark. It is also clear and has been held many times in prior UDRP decisions that when internet users see the substance of a trademark used in a domain name in this way, even with such a minor spelling alteration, they will naturally conclude that the domain name is an official domain name of the trademark owner or at least that it is being used with the permission of the trademark owner. The Panel finds that internet users would reach that conclusion with respect to the disputed domain name in the present proceeding.

Secondly, the domain name is not a complete duplication of the trademark, as it deletes the letter "r" of the trademark. Thus, in registering the disputed domain name, the Respondent has engaged in typosquatting which, as has been demonstrated in many prior UDRP decisions, shows confusing similarity between the disputed domain name and the trademark. That is so because internet users may miss-type the Complainant's trademark and land by accident at the disputed domain name and any website to which it resolves. They may also see the disputed domain name and think that it is the correct spelling of the trademark or even that it may have been a typing mistake but nevertheless follow it.

Thirdly, the fact that the domain name has been created by making such a minor change to the trademark, which is nevertheless apparent for everyone to see, suggests instantly that the Respondent is engaged in some activity designed to generate confusion and to do damage to the Complainant involving the use of the disputed domain name. In fact, it can be assumed that the Respondent was hoping that internet users who came across the disputed domain name would not notice that the spelling of the trademark had been so slightly changed and would assume that the disputed domain name was an official domain name of the Complainant and that it was being used for a legitimate purpose, neither of which on the evidence is true.

Finally, the "dot.com" suffix which the Respondent has also added, is disregarded for the purpose of assessing confusing similarity, as all domain names must have such an extension and its presence cannot negate the clear impression being given that the disputed domain name is confusingly similar to the THYSSENKRUPP trademark, which it clearly is.

Taken as a whole, the internet user would look at the disputed domain name and conclude that it is similar to the trademark, because the substance of trademark is included in the domain name and is its dominant portion, and also that it is confusingly similar to the trademark, because it gives rise to a question mark as to whether it really is an official domain name of the Complainant or not.

The Panel therefore finds that the disputed domain name is confusingly similar to the THYSSENKRUPP trademark. This conclusion is supported by the prior UDRP decisions cited by the Complainant.

The Complainant has thus made out the first of the three elements that it must establish.

**Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. But by virtue of paragraph 4(c) of the Policy, it is open to a respondent to establish its rights or legitimate interests in a domain name, among other circumstances, by showing any of the following elements:

(i) before any notice to you [respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you [respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you [respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Thus, if a respondent proves any of these elements or indeed anything else that shows that it has a right or legitimate interest in the disputed domain name, the complainant will have failed to discharge its onus and the complaint will fail.

It is also well-established that a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests and that when such a prima facie case is made out, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent cannot do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Panel, after considering all of the evidence in the Complaint, finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

That prima facie case has been made out from the following considerations:

(a) the Complainant has clearly established its rights in the THYSSENKRUPP trademark;

(b) it is clear from the slight spelling alteration to the trademark that the Respondent must have devised the domain name with the intention of creating a domain name that would be confusingly similar to the Complainant's famous trademark and in the hope that it would mislead and deceive at least some internet users. Such an intention could not conceivably give rise to a right or legitimate interest in the disputed domain name;

(c) there is no evidence that the Respondent is related in any way to the Complainant's business or affiliated with the Complainant or authorized by it in any way to use the THYSSENKRUPP trademark or any altered spelling thereof nor any evidence that the Respondent carries out any activity for, or has any business with, the Complainant;

(d) there is no evidence that the Respondent is commonly known by the domain name; the only question here is whether the registrant is commonly known as <thyssenkupp.com> " and there is no evidence that it is so known or that it is known by any name other than its own;

(e) there is no evidence that any licence or permission has been granted by the Complainant to the Respondent to make any use of the trademark or to register the disputed domain name;

(f) the evidence is that the Respondent has caused the disputed domain name to be used to send emails purporting to include invoices of the Complainant, and one of which is attached to the Complaint as Annex 6 and which states "Hello, As per your customer's request, please find attached the SWIFT copy for the advance payment of Proforma Invoice No. 2025/009483 for your confirmation and reference. Kindly ensure to let us know once payment is received. Thank you." It is clear that this is a fraudulent attempt on behalf of the Respondent to obtain an illicit payment and that the Respondent is using the Complainant's trademark to achieve that improper objective.

None of this conduct shows that the Respondent used the disputed domain name for a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy; there was nothing bona fide in such conduct; in fact, in view of the deceptive nature of the Respondent's conduct, the use of the domain name as aforesaid was mala fide rather than bona fide.

Nor did such conduct show that the Respondent made a legitimate non-commercial or fair use of the domain name within the meaning of paragraph 4(c)(iii) of the Policy, as there is nothing legitimate about it, it was in all probability done to make money, which is commercial, and it was not fair to the Complainant or to internet users in general to generate inevitable confusion between the disputed domain name and the Complainant's trademark.

Nor does that conduct come within any of the criteria for a right or legitimate interest in a domain name that are set out in paragraph 4(c)(i) – (iii) of the Policy and nor could it show that the Respondent had a right or legitimate interest in the disputed domain name on any other basis.

These facts give rise to the prima facie case made out by the Complainant.

The Respondent has not filed a formal Response to the claims of the Complainant and is in default.

Accordingly, the prima facie case has not been rebutted and the Complainant has therefore made out the second of the three elements that it must establish.

**Registered and Used in Bad Faith**

The Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

Paragraph 4(b) of the Policy sets out four circumstances, any one of which is evidence of the registration and use of a domain name in bad faith, although other circumstances may also be relied on, as the four circumstances are not exclusive. The four specified circumstances are:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the site or location.

The Panel finds for the following reasons, and as the Complainant submits, that the disputed domain name was registered and has been used by the Respondent in bad faith:

- the Respondent has used the disputed domain name to send a fraudulent email to an individual purporting to be an official invoice from the Complainant; this has already been discussed and shows very clearly a bad faith intention both in registering and using the disputed domain name;
- the Respondent had actual knowledge of the Complainant and its trademark at the time it registered the disputed domain name; the fame and prominence of the Complainant, its name, trademark and brand are such that it is inconceivable that the Respondent did not have such actual knowledge; in any event, the fact that the Respondent took the trademark and made a slight alteration to it, obviously to mislead internet users, shows that the Respondent knew its target and even how to spell its name and change it to mislead internet users;
- the registration of the disputed domain name constitutes an attempt to derive unjustified commercial benefit on the back of the Complainant's trademark rights; the fact that the Respondent sent out a false demand for money shows that it was using the Complainant's trademark for illicit commercial gain;
- the Respondent had no prior rights in the disputed domain name and therefore had no reason for registering it, other than to trade on the Complainant's reputation and economic success, which constitutes bad faith; this is self-evident;
- the disputed domain name misleads internet users into believing that it is associated with the legitimate business of the Complainant; this is apparent from the formulation of the disputed domain name; and
- on the evidence, the Respondent has clearly been motivated by the intention to cause confusion between the Complainant and the Respondent by means of misleading users and diverting internet traffic away from the Complainant and towards the Respondent.

All of the facts therefore show that the Respondent registered and used the disputed domain name in bad faith. There is no conceivable ground for concluding that the Respondent was acting in good faith, as the Respondent was clearly targeting the Complainant for an improper purpose.

Taken together, these circumstances show that the Respondent has registered and used the disputed domain name in bad faith.

Finally, in addition and having regard to the totality of the evidence, the Panel finds that, in view of Respondent's registration of the disputed domain name, retaining it, and using it as aforesaid, the Respondent registered and used it in bad faith within the generally accepted meaning of that expression.

Accordingly, the Complainant has shown the third of the three elements that it must establish.

On all of the above issues, the Complainant has cited numerous prior UDRP decisions that support its contentions.

The Complainant has therefore made out its case and is entitled to the relief it seeks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **thyssenkupp.com**: Transferred

## PANELLISTS

| Name | **Neil Brown** |
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DATE OF PANEL DECISION 2025-03-21

Publish the Decision