Decision for dispute CAC-UDRP-107362

Case number	CAC-UDRP-107362
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Domain names	thyssenkrups.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	thyssenkrupp AG

Respondent

Name	Edward James

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 enjoys trademark protection for the word marks “thyssenkrupp” and “ThyssenKrupp” by means of several international and national trademark registrations, including but not limited to: i) the International Registration Nr. 713857 ThyssenKrupp registered on April 29, 1999 at classes 01, 04, 06, 07, 09, 11, 12, 16, 17, 19, 37, 39, ii) the International Registration Nr. 731636 ThyssenKrupp registered on July 07, 1999 at classes 35, 36, 37, 38, 39, 40, 41 & 42, iii) the International Registration Nr. 1545329 ThyssenKrupp registered on June 2, 2020 at classes 09, 16, 18, 25 & 35.

The Complainant is also the registrant of numerous domain names containing its trademarks “thyssenkrupp”, “thyssen”, “krupp”, for instance: the domain name “thyssenkrupp.com”, which it was registered on January 28, 1998.

FACTUAL BACKGROUND

FACTS PROVIDED BY THE COMPLAINANT:

The Complainant is a German conglomerate with more than 98.000 employees and a revenue of more than 35 billion EUR in fiscal 2023/2024. It was ranked tenth largest worldwide by revenue in 2015. The Complainant’s company name “thyssenkrupp” is the result of a merger of two German well-known steel companies, Thyssen AG (founded in 1891) and Krupp AG (founded in 1811).

The Complainant maintains a strong online presence and operates its main webpage at “https://www.thyssenkrupp.com/”, which it was registered on January 28, 1998.

The disputed domain name <thyssenkrups.com> (hereinafter, the “Disputed Domain Name”) was registered on February 15th, 2025 using Privacy Protected services and the Respondent used an email address linked to the Disputed Domain Name to perpetrate a phishing scheme targeting the Complainant's client.

According to the Complainant’s non-contested allegations, the Respondent has no rights or legitimate interest in respect of the Disputed Domain Name, and he is not related in any way to the Complainant’s business.

For the purpose of this case, the Registrar confirmed that the language of the registration agreement is English.

The Respondent did not reply to the Complaint.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES CONTENTIONS

COMPLAINANT:

First element: Similarity

The Complainant confirms that the Disputed Domain Name <thyssenkrups.com> is almost identical to the Complainant's trademarks and domains.

The Complainant states that the Disputed Domain Name is almost identical to the Complainant's trademarks and domain "thyssenkrupp". The Disputed Domain Name replaces the last letter "p" with "s", which is a minor typographical alteration. This kind of misspelling does not create a distinct identity and is a common tactic in cybersquatting cases. This alteration does not significantly alter the appearance, pronunciation, or overall impression of the mark, creating a strong likelihood of confusion among Internet users. This tactic of slight misspelling, commonly referred to as "typosquatting,", aims to divert traffic from the Complainant's official domain name "thyssenkrupp.com" by exploiting user errors in typing. Such deliberate imitation demonstrates bad faith registration, as the Respondent is leveraging the Complainant's reputation and goodwill associated with the "thyssenkrupp" brand to mislead users for potentially illegitimate purposes. Phonetically, the change is negligible, and visually, it is a minor deviation that users could easily overlook, increasing the likelihood of confusion. Internet users who come across the Disputed Domain Name will therefore undoubtedly recognize the Complainant's trademarks and company name in it and come to the erroneous conclusion that it is the Complainant's domain name.

The Complainant also mentioned that the term "thyssenkrupp" certainly has a distinctive character in the Disputed Domain Name. It is fanciful and has no meaning at all for any goods and services are finally offered under the Disputed Domain Name. Moreover, the element "thyssenkrupp" coincides with the Complainant's company name and trademarks. In the present case, particular account must be taken of the fact that the Complainant's trade mark is an unusual term consisting of the names of the two undertakings which made up the Complainant, namely "thyssen" and "krupp".

Furthermore, the Complainant contends that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect a domain name for the purpose of determining whether it is identical or confusingly similar.

Second element: Rights or legitimate interest

The Respondent has never been authorized by the Complainant to register or use any of its trademarks, nor has it been authorized to register or use any domain name incorporating the Complainant's trademark and company name. Rather, the Respondent has no connection at all with the Complainant or any of its affiliates.

Furthermore, the Respondent has not used the Disputed Domain Name for any legitimate business or non-commercial fair use purposes. Instead, the Respondent has used the Disputed Domain Name's email address to send phishing emails, further demonstrating bad faith use.

The Disputed Domain Name incorporates the Complainant's well-known trademark, making it unlikely that the Respondent could have a legitimate interest in it. Therefore, the Respondent has no rights or legitimate interests in the Disputed Domain Name.

Third element: Bad faith

The Complainant contends that the Respondent is using the Disputed Domain Name in bad faith for fraudulent purposes. The Respondent's bad faith in registering and using the Disputed Domain Name is evident through its malicious activities, which have directly harmed the Complainant and its customers. Specifically, the Respondent has used an email address linked to the Disputed Domain Name to perpetrate a phishing scheme targeting the Complainant's client. The fraudulent email impersonated the Complainant's legitimate business operations. The provided evidence demonstrates that the Respondent intentionally misrepresented itself as the Complainant, exploiting the goodwill and reputation of the "thyssenkrupp" trademark to deceive and defraud.

In accordance with the Complainant, the Respondent has intentionally disrupted the Complainant's business and attempted to confuse consumers for its financial gain. This clear intent to exploit the Complainant's trademark for fraudulent purposes not only undermines the legitimate interests of the Complainant but also jeopardizes the trust and security of its clients.

The above emphasizes the fact that the Respondent had knowledge of the Complainant's well-known trademarks, company names and domains when choosing the Disputed Domain Name. This is because the Complainant is not only the owner of the aforementioned trademark rights, which exist and are used worldwide, but also the name "thyssenkrupp" is legitimately used by a large number of other companies in the Group and is part of various other legitimate domain names.

The Complainant also maintains a strong online presence and operates its main webpage at www.thyssenkrupp.com. The Complainant is also the registrant of numerous additional domain names containing its trademarks "thyssenkrupp", "thyssen" and "krupp". Considering the Complainant's reputation and its market presence, it is clear that the Respondent must have been fully

aware of the Complainant and its “thyssenkrupp” trademarks when registering the Disputed Domain Name.

The Respondent’s registration of the Disputed Domain Name, given the widespread use of the Complainant's “thyssenkrupp” mark and the Respondent’s lack of association with the Complainant, constitutes an attempt to derive unjustified commercial benefit on the back of the Complainant’s rights.

The Complainant’s company name as well as its trademarks “thyssenkrupp” have a strong reputation and are widely known in Germany and beyond. Moreover, prior UDRP panels have held that the registration of a domain name which appears to be connected to a well-known trademark has been found to constitute opportunistic bad faith.

As pointed out above, the Respondent has no prior right in the Disputed Disputed Domain Name. There is no other reason to choose a domain name which alludes to the Complainant’s well-known trademark “thyssenkrupp” as the distinctive and therefore dominant element, except for the fact that the Respondent’s obviously intends to participate in the Complainant’s reputation and economic success. The Respondent thus purchased/registered the Disputed Domain Name containing the Complainant’s well-known trademark at least with the intent to benefit from the Complainant’s reputation. Such use is neither a bona fide use of the Disputed Domain Name pursuant to paragraph 4(c)(i) of the Policy nor a legitimate noncommercial or fair use.

Free riding on the rights of another does not constitute a bona fide use of a domain name, and thus the Respondent cannot claim any rights or legitimate interests in the Disputed Domain Name. For these reasons the Respondent could not have been using or preparing to use the Disputed Domain Name in connection with a bona fide offering of services prior to the dispute.

RESPONDENT:

Respondent did not reply to the Complaint.

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).

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.

PRINCIPAL REASONS FOR THE DECISION

- THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR TO THE TRADEMARK THYSSENKRUPP® OF THE COMPLAINANT.

The Uniform Domain Name Dispute Resolution Policy (the Policy) in its Paragraph 4(a)(i) indicates the obligation of the Complainant to demonstrate that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has submitted evidence showing the ownership of several international trademarks, including but not limited to: i) the International Registration Nr. 713857 ThyssenKrupp registered on April 29th, 1999 at classes 01, 04, 06, 07, 09, 11, 12, 16, 17, 19, 37, 39, ii) the International Registration Nr. 731636 ThyssenKrupp registered on July 07, 1999 at classes 35, 36, 37, 38, 39, 40, 41 & 42, iii) the International Registration Nr. 1545329 ThyssenKrupp registered on June 2nd, 2020 at classes 09, 16, 18, 25 & 35.

From the Panel’s perspective, the Disputed Domain Name <thyssenkrups.com> is composed of almost all letters of the trademark

“THYSSENKRUPP” with the replacement of the last letter "p" with "s". From the Panel’s perspective, this an intentional misspelling of Complainant’s trademark and a clear typosquatting case where internet users searching for “<www.thyssenkrupp.com>” might wrongly type the letter “S” instead of “P” in the keyboard and by doing so, they would end up at Respondent’s website “**<www.**thyssenkrups.com**>**”. (See, e.g., Sanofi. v. Domains By Proxy, LLC /domain admin, WIPO Case No. D2013-0368: “The Domain Name consists of the SANOFI Mark with the letter “o” replaced by the letter “i”. The replacement of “o” with “i” does not operate to prevent a finding of confusing similarity between the SANOFI Mark and the Domain Name especially in circumstance where the letters “o” and “i” are right next to each other on a typical “qwerty” keyboard, meaning that a single slip of the fingers would result in an Internet user who intended to visit the Complainant’s website at www.sanofi.com visiting the Respondent’s Website instead”).

Furthermore, previous panels have found that special attention should be paid to domain names where the difference in spelling is so insignificant that it is hardly noticeable and does not change the distinctive character of the mark in question. See, e.g., BOURSORAMA SA v. francois goubert , CAC Case No. 104595: “This also applies to domain names where the difference in spelling is so insignificant that it is hardly noticeable and does not change the distinctive character of the mark in question. Most readers would be hard put to quickly spot the difference between "BOURSORAMA" and "BOUSORAMA". This takes some analysis, especially at the mind reads what it expects to see from previous experience. In this case, that expectation would be to read the well-known word "BOURSORAMA”.”.

Lastly, the addition of the applicable Top-Level Domain Name “.com” in a domain name is considered as a standard registration requirement and, therefore, it should be disregarded under the first element confusing similarity test (see paragraph 1.11 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition “WIPO Overview 3.0”).

Therefore, the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy and the Disputed Domain Name is confusingly similar to the Complainant’s mark.

- **RESPONDENT’S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN THE DISPUTED DOMAIN NAME.**

The second element of the Policy requires that the Complainant establishes that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The generally adopted approach by UDRP panels, when considering the second element, is that if a complainant makes out a prima facie case, the burden of proof shifts to the respondent to rebut it (see WIPO Jurisprudential Overview, version 3.0., paragraph 2.1).

The Complainant indicates that the Respondent is not affiliated nor authorized in any way to use the trademark **THYSSENKRUPP®**. Furthermore, the Complaint argues that it does not carry out any activity for, nor has any business with the Respondent. Finally, the Complainant has not granted a license or authorization to the Respondent to make any use of the trademark **THYSSENKRUPP®**.

From the information provided by Complainant, there is no evidence or reason to believe that the Respondent (as an individual, business or other organization) has been commonly known by the Disputed Domain Name. The Respondent registered the Disputed Domain Name using a privacy protected service and this is all what links the Disputed Domain Name with the Respondent. Absent of any other evidence such as a personal name, nickname or corporate identifier, the Panel is of the opinion that the Respondent is not commonly known by the Disputed Domain Name.

The Complainant also mentioned that the Disputed Domain Name is a typosquatted version of the trademark THYSSENKRUPP®. In this regard, UDRP panels have confirmed in different decisions that when typosquatting is occurring, then this can be considered as additional evidence that the Respondent has no right or legitimate interest under the Policy. (See, e.g., Pentair Flow Services AG v. Scott Fisher, CAC Case No. 103931. “Since typosquatting is a practice of registering a domain name in an attempt to take advantage of internet user’s typographical errors, this circumstance is also evidence that the Respondent lacks rights and legitimate in the disputed domain name”).

The Complainant has also provided evidence showing that the Respondent has used an email address linked to the Disputed Domain Name to perpetrate a phishing scheme targeting the Complainant's client. The fraudulent email impersonated the Complainant’s legitimate business operations. Past panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.

The fact that Respondent did not reply to the Complaint gives an additional indication that the Respondent lacks rights or legitimate interest since the Respondent did not provide with evidence of the types specified in paragraph 4 (c) of the Policy, or of any circumstances, giving rise to rights or legitimate interests in the Disputed Domain Name.

Therefore, the Panel concludes that neither the Respondent nor the evidence establishes that the Respondent has any right or legitimate interest to the Disputed Domain Name. The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

- **THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH IN ACCORDANCE WITH THE POLICY.**

Paragraph 4(a)(iii) of the Policy indicates that Complainant must assert that the Respondent registered and is using the Disputed Domain Name in bad faith. In this sense, Paragraph 4(b) of the Policy sets out four circumstances which if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the Respondent has registered or acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed 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 Respondent has engaged in a pattern of such conduct; or

(iii) The Respondent has registered the Disputed 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.

In accordance with the Complainant, the trademark THYSSENKRUPP® is an unusual term consisting of the names of the two undertakings which made up the Complainant, namely "thyssen" and "krupp". The Complainant company name "thyssenkrupp" is the result of a merger of two German well-known steel companies, Thyssen AG (founded in 1891) and Krupp AG (founded in 1811). Furthermore, the Complainant provided an extract of its website where the use of its trademark THYSSENKRUPP® can be seen. Even though the Complainant did not include any other evidence supporting the use of its trademark, the Panel decided to use its General Powers described in article 10 of the Rules for Uniform Domain Name Dispute Resolution Policy to conduct an internet search where the Complainant's name was included. The results retrieved only showed information about the Complainant which it is an indication that the Complainant's trademark THYSSENKRUPP® might have a strong reputation in the industrial engineering and steel production services at least in Germany. Absent of the Respondent's reply, the Panel finds that the Respondent, prior to the registration of the Disputed Domain Name was aware of the Complainant's trademark, in particular since the Disputed Domain Name was registered on February 15, 2025 and the Complainant's trademarks were registered long before the registration of the Disputed Domain Name.

Furthermore, the Disputed Domain Name is a typosquatted version of the trademark THYSSENKRUPP®. Some panels have found that domain names comprising typos or misspellings of a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see paragraph 3.1.4 of WIPO Overview 3.0).

The Complainant has also provided evidence showing that the Respondent has used an email address linked to the Disputed Domain Name to perpetrate a phishing scheme targeting the Complainant's client. The fraudulent email impersonated the Complainant's legitimate business operations. Past panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution (see paragraph 3.4. of WIPO Overview 3.0)

In light of the above-mentioned findings, the Panel finds that the evidence submitted by the Complainant supports the argument that by using the Disputed 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.

Therefore, the Panel concludes that the Respondent registered and is using the Disputed Domain Name in bad faith and, thus has satisfied the requirement 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. **thyssenkrups.com**: Transferred

PANELLISTS

Name	**Victor Garcia Padilla**

DATE OF PANEL DECISION 2025-04-08

Publish the Decision