Decision for dispute CAC-UDRP-107422

Case number	CAC-UDRP-107422
Time of filing	2025-03-25 08:57:09
Domain names	thyssenkrupp-de.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	thyssenkrupp AG

Respondent

Name	John Anthony

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 invokes numerous trademarks including the following:

- German word mark THYSSENKRUPP registered under 39860667 since April 29, 1999, covering goods and services in classes 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 31, 37 and 39;
- international word mark THYSSENKRUPP registered under 713857 since April 29, 1999, covering goods and services in classes 1, 4, 6, 7, 9, 11, 12, 16, 17, 19, 37 and 39.

FACTUAL BACKGROUND

The Complainant, ThyssenKrupp AG, is a German international industrial and technology conglomerate with more than 98.000 employees and a revenue of more than 35 billion EUR in fiscal 2023/2024.

The Complainant is the owner of numerous registered trademarks including German and international word marks THYSSENKRUPP in several classes since 1999, and also operates domain names such as <thyssenkrupp.com>.

The disputed domain name <thyssenkrupp-de.com> was registered on March 11, 2025. According to the Complainant's evidence, the disputed domain name has been used to send emails mentioning the Complainant's trademark, company name and registered address.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant considers the disputed domain name to be confusingly similar to a trademark in which it has rights. The

Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to the Complainant, the Respondent has never been authorized to register or use any of the Complainant's trademarks, nor has it been authorized to register or use any domain name incorporating the Complainant's trademark and company name. The Complainant further claims that the Respondent has not used the domain for any legitimate business or non-commercial fair use purposes, and has not provided any evidence of demonstrable preparations to use the domain in connection with a legitimate offering of goods or services. Instead, the Respondent has used the domain to send phishing emails impersonating the Complainant in an attempt to deceive recipients. Finally, the Complainant considers that the disputed domain name was registered and is being used in bad faith. The Complainant contends that given the well-known character of its trademark, its reputation and market presence, it is clear that the Respondent must have been fully aware of the Complainant and its trademark. The Complainant further claims that by using the disputed domain name through the sending of fraudulent emails, the Respondent has intentionally disrupted the Complainant's business and attempted to confuse consumers for its financial gain.

RESPONDENT:

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

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

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in Paragraph 4 (a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed it must prove, within the meaning of Paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
2. The Respondent has no rights or legitimate interests in respect of the domain name; and
3. The domain name has been registered and is being used in bad faith.

The Panel has therefore dealt with each of these requirements in turn.

1. Identity of confusing similarity

The Complainant must first establish that there is a trademark or service mark in which it has rights. Since the Complainant is the holder of the registered THYSSENKRUPP trademark, which is used in connection with the Complainant's industrial and technology business, it is established that there is a trademark in which the Complainant has rights.

The disputed domain name <thyssenkrupp-de.com> incorporates the Complainant's THYSSENKRUPP trademark in its entirety, merely adding a hyphen and the terms "de". In the Panel's view, this addition does not prevent the Complainant's trademark from being recognizable within the disputed domain name (see section 1.8 WIPO Overview 3.0; IM PRODUCTION v. Xue Han, CAC Case No. 104877 <isabel-marantus.com>).

Additionally, it is well established that the Top Level Domains ("TLDs") such as ".com" may be disregarded when considering whether the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (see section 1.11 WIPO Overview 3.0).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. Accordingly, the Complainant has made out the first of the three elements that it must establish.

2. No 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.

It is established case law that it is sufficient for the Complainant to make a prima facie showing that the Respondent has no right or legitimate interest in the disputed domain name in order to shift the burden of proof to the Respondent (see section 2.1 WIPO Overview 3.0 and Champion Innovations, Ltd. V. Udo Dussling (45FHH), WIPO case No. D2005-1094; Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO case No. D2003-0455; Belupo d.d. v. WACHEM d.o.o., WIPO case No. 2004-0110).

The Panel notes that the Respondent does not seem to be commonly known by the disputed domain name and that the Respondent has not acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is known as "John Anthony". The Respondent's use and registration of the disputed domain name was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent existed.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Generally speaking, UDRP panels have found that where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 WIPO Overview 3.0). The disputed domain name incorporates the Complainant's distinctive THYSSENKRUPP trademark in its entirety, merely adding a hyphen and the term "de". In the Panel's view, this addition even increases the risk of confusion with the Complainant as it corresponds to the country code/abbreviation of Germany, where the Complainant was founded and where its registered offices are located. Therefore, the Panel finds that the disputed domain name carries a high risk of implied affiliation with the Complainant and cannot constitute fair use.

Moreover, according to the Complainant's evidence, the disputed domain name has been used to send emails mentioning the Complainant's trademark, company name and registered address. These emails appear to have been sent to place orders impersonating the Complainant. Obviously, this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent (see section 1.13 of the WIPO Overview 3.0).

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name. In light of the above, the Complainant succeeds on the second element of the Policy.

3. Bad faith

The Complainant must prove on the balance of probabilities that the disputed domain name was registered in bad faith and that it is being used in bad faith (see section 4.2 WIPO Overview 3.0 and e.g. Telstra Corporation Limited v. Nuclear Marshmallow, WIPO Case No. D2000-0003; Control Techniques Limited v. Lektronix Ltd, WIPO Case No. D2006-1052).

According to the Panel, the awareness of a respondent of the complainant and/or the complainant's trademark rights at the time of registration can evidence bad faith (see Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz, WIPO Case No. D2011-2209; Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite, WIPO Case No. D2001-1070).

In the instant case, the Panel finds that the Respondent must have had knowledge of the Complainant's rights in the THYSSENKRUPP trademark at the moment it registered the disputed domain name, since the disputed domain name incorporates

the Complainant's distinctive THYSSENKRUPP trademark in its entirety and adds a geographical abbreviation which refers to the country where the Complainant has its registered offices. Moreover, the Complainant's mark has been registered for more than 25 years before the disputed domain name.

As established above, the disputed domain name has been used to send emails impersonating the Complainant by mentioning the Complainant's trademark, company name and registered address. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant and the Complainant's trademarks (see section 3.2.4, WIPO Overview 3.0).

Finally, the Respondent did not formally take part in the administrative proceedings. According to the Panel, this serves as an additional indication of the Respondent's bad faith.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **thyssenkrupp-de.com**: Transferred

PANELLISTS

Name	**Flip Petillion**

DATE OF PANEL DECISION 2025-05-09

Publish the Decision