Decision for dispute CAC-UDRP-107926

Case number	CAC-UDRP-107926
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Domain names	thenukeproof.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Belgian Cycling Group, besloten vennootschap

Complainant representative

Organization	Winger Trademarks BV

Respondent

Name	yu qinfang

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The name “NUKE PROOF” was first registered as a trademark in 2005 in the US with Trademark n° 78473953.

FACTUAL BACKGROUND

The Complainant is Belgian biking company Belgian Cycling Group, besloten vennootschap.

Founded in 1990 in the USA, Nukeproof has grown into one of the biggest names in mountain biking, known for its progressive geometry, race-winning designs, and unparalleled durability. The bikes have long been the brand of choice for both elite racers and keen amateurs - frequently spotted on the World Cup Downhill and Enduro World Series podiums.

As of 26 February 2025, Nukeproof has joined the portfolio of brands of Belgian Cycling Factory (“BCF”) alongside Ridley Bikes and Eddy Merckx Bikes. With this high-level acquisition, BCF has expressed its goal of maintaining the historical Nukeproof brand and further developing it while staying true to its race-winning performance and durable design.

PARTIES CONTENTIONS

COMPLAINANT

Upon review of the brand's related assets, the Complainant has found that the disputed domain name was registered in bad faith by the Respondent in June 2025. In view of the clearly abusive practices of the Respondent, who currently features a fake "Nukeproof" website on the domain, featuring AI images of bikes generated from original "NUKEPROOF" bikes, unaffiliated Amazon links and other information clearly established for abusive and phishing purposes, the Complainant has immediately decided to submit the matter to arbitration and hereby requests that the complaint be submitted for decision in accordance with the UDRP.

First UDRP Element - The Domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

The Complainant's registered mark is wholly contained within the disputed domain name as its distinctive element, with the only addition of a definite article "the" in front.

We affirm that the disputed domain name is identical or confusingly similar to the Complainant's "NUKEPROOF" trademark.

The disputed domain name:

- merely adds the definite article "the" in front of "NUKEPROOF";
- wholly incorporates the registered "NUKEPROOF" trademark; and
- is so similar to the Complainant's "NUKEPROOF" mark that it is likely to cause, and is intended to cause, confusion among members of the public and others.

Second UDRP Element - the Respondent should be considered as having no rights or legitimate interests in respect of the domain name that is the subject of the Complaint

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant is not affiliated in any way with the Respondent and has never authorized the Respondent to register or use the disputed domain name or the "NUKEPROOF" trademark. Upon information and belief, the Respondent is not commonly known by the name "NUKEPROOF" or any variation thereof.

Fundamentally, the Respondent's use of the disputed domain name cannot be considered "fair" as it falsely suggests affiliation with the trademark owner. Even more strongly, the Respondent appears to impersonate the Complainant by creating the impression that its website is the official one. We are dealing with a site masquerading as another site to steal usernames, passwords, personal and/or financial data, or to mislead customers into buying counterfeit products.

Where a domain name consists of a trademark plus an additional – barely distinctive - term such as a definite article, UDRP panels have largely held that such a composition cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

On this element, we further point out that none of the Respondent's defenses under UDRP paragraph 4(c) are applicable in this case:

- Before any notice of the dispute, the Respondent did not use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services, nor are there any indications that the Respondent was preparing to use the domain name in such a way. For the recorded past, the domain name was not used to host any content that would relate to lawful use of "NUKEPROOF", only featuring a fake approximation of the original website: <nukeproof.com>.
- The Respondent (as an individual, business, or other organization) has not been commonly known by the domain name.

This is supported by the fact that no evidence of business formation could be found, as well as by the active protection by the Respondent of the trademark rights on the name "NUKEPROOF". If there were any party with a lawful claim to the domain name, the Complainant would necessarily know it.

Moreover, the Complainant has not licensed or otherwise permitted the Respondent – or any other party, for that matter - to use any of its trademarks or to apply for or use any domain name incorporating its marks. In the course of business, "NUKEPROOF" as such can be considered to be an invented word. As such, it is not a name traders would legitimately choose unless seeking to create an impression of an association with or impersonation of the Complainant.

Not only has the Respondent never been known by the domain name, but he was obviously aware that it was (and still is) another party's trademark. Accordingly, the Respondent cannot be considered as having rights or legitimate interests in respect of the disputed domain name.

- The Respondent is not making a legitimate non-commercial 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. There is nothing in the use of the domain by the Respondent that could lead us to believe that there is any intention to use the domain legitimately. It is pure phishing.

The above fulfils the Complainant's task to make out a prima facie case that the Respondent lacks rights or legitimate interests. While indeed the overall burden of proof in UDRP proceedings is on the complainant, it should be recognized that proving that the

Respondent lacks rights or legitimate interests in the disputed domain name may result in the often impossible task of “proving a negative”.

As a possible legitimate interest requires information that is often only within the knowledge or control of the Respondent, we respectfully ask that the burden of production on this element shift to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name since the Complainant proved that there is prima facie no such interest. If the Respondent fails to come forward with such relevant evidence, we ask the Panel to confirm that the Complainant is deemed to have satisfied the second element.

Third UDRP Element - the disputed domain name has been registered and is being used in bad faith.

With a registration date of 13 June 2025, the disputed domain name registration comes well after the reputation and recognizable character of the trademark “NUKEPROOF” were established, and well after the name had been registered as an international trademark. Indeed, the first registration of “NUKEPROOF” as a trademark dates back to 2005, and the trademark protection was broadly expanded in 2007. Moreover, given the widespread publicity and fame of the “NUKEPROOF” trademark, as well as the fact that the website featured on the disputed domain name copies the brand elements and brand guidelines of the original, with the name, logos, colors etc. taken over completely, it is indisputable that the Respondent knew the Complainant’s famous mark before the registration of the disputed domain name. The Respondent is clearly trying to impersonate the Complainant’s mark and to redirect consumers to its own products, going so far as to feature Amazon links on the website – no original “NUKEPROOF” bikes are sold via the marketplace – and to refer to unlicensed products.

Panels have held that the use of a domain name for illegal activity, such as: phishing, impersonation/passing off, and other types of fraud, constitutes bad faith. It is clear in this case that, by registering and using the domain name, the Respondent is attempting to attract, for commercial gain, Internet users to its website, 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 Respondent’s website or location.

Accordingly, we consider that the Respondent registered the disputed domain name in full knowledge of the Complainants' trade mark rights and, on balance, with the intention of taking advantage of such rights. In our view, there is little doubt that the Respondent registered the domain name in bad faith.

Based on the above, we believe that we have sufficiently substantiated our Complaint, and we respectfully request the transfer of the disputed domain name to the Complainant.

Additional statements

- Complainant warrants that all information provided hereunder is complete and accurate.
- Complainant agrees with the processing of his personal data by the Provider to the extent necessary for the due performance of the Provider’s responsibilities hereunder.
- Complainant also agrees with the publication of the full decision (including personal details contained in the decision) issued in the ADR Proceeding initiated by this Complaint in the language of the ADR Proceeding and in an unofficial English translation secured by the Provider.
- Complainant further agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain name holder and hereby waives any claims and remedies against the Provider, as well as its directors, officers, employees, advisors and agents, except in the case of deliberate wrongdoing; Panelists, except in the case of deliberate wrongdoing; the Registrar, except in the case of deliberate wrongdoing.

RESPONDENT

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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 have been met, and there is no other reason why it would be unsuitable for providing the Decision.

PRINCIPAL REASONS FOR THE DECISION

1. Identical or Confusingly Similar

The Complainant has demonstrated registered trademark rights in the mark "**NUKEPROOF**". The Panel notes that the disputed domain name wholly incorporates the Complainant's "NUKEPROOF" mark, with the mere addition of the definite article "the" as a prefix.

The Complainant's mark remains clearly recognizable within the disputed domain name. The inclusion of the definite article "the" does not materially alter the appearance, pronunciation, or overall impression of the mark.

Furthermore, the Panel considers that the Complainant's "NUKEPROOF" mark constitutes the dominant and distinctive element of the disputed domain name. The addition of "the" serves only to draw attention to, rather than distinguish from, the underlying trademark. Internet users encountering the disputed domain name are likely to perceive it as a domain name associated with, or referring to, the Complainant and its "NUKEPROOF" products.

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant must establish that the Respondent has no rights or legitimate interests in the disputed domain name. Once a prima facie case is made, the burden shifts to the Respondent to demonstrate such rights or legitimate interests under paragraph 4(c) of the Policy.

The Complainant has shown that it has not authorized or otherwise permitted the Respondent to use its "**NUKEPROOF**" trademark or to register any domain name incorporating it. There is no evidence that the Respondent is commonly known by the disputed domain name or by the term "NUKEPROOF". The word "NUKEPROOF" is distinctive, and the content on the website under the disputed domain name refers to the Complainant, making it unlikely that the Respondent selected it for any legitimate reason unrelated to the Complainant.

All in all, the evidence indicates that the disputed domain name has been used for a website imitating the Complainant's official site, <nukeproof.com>. Such use appears intended to mislead users into believing the site is affiliated with or endorsed by the Complainant, possibly to obtain personal or financial information or to promote counterfeit products. This conduct cannot constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use within the meaning of paragraph 4(c) of the Policy. But this will be analyzed further below.

Panels have consistently held that a domain name comprising a complainant's trademark with only the addition of a minor, non-distinctive term—such as the definite article "the"—does not confer rights or legitimate interests, particularly where the domain name is used to impersonate the trademark owner or suggest sponsorship or endorsement.

In the Panel's view, these assertions and the attached evidence are sufficient to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name (see 2.1 of the WIPO Overview 3.0).

These facts lead the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name. Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

The Complainant's "**NUKEPROOF**" trademark has been registered since 2005, and the disputed domain name was registered on 13 June 2025, long after the Complainant's mark had become established and recognized. The Respondent's use of the Complainant's brand name, logo, and arguably some of the visual identity on the website associated with the disputed domain name shows that the Respondent was clearly aware of, and more likely targeted the Complainant and its rights at the time of registration.

The website under the disputed domain name mimics the Complainant's official site's look and feel and directs users to third-party marketplaces offering competitor products, apparently counterfeits, and unlicensed products. Such conduct demonstrates an intent to mislead Internet users and to profit from the Complainant's reputation. UDRP panels have consistently found that using a domain name for impersonation, phishing, or to create confusion for commercial gain constitutes bad faith under paragraph 4(b)(iv) of the Policy.

In light of the Respondent's knowledge and targeting of the Complainant's mark, on the balance of probability and without any evidence or explanation to the contrary, as well as the imitation of its branding, and the misleading commercial use of the website, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. Decision

For the reasons mentioned above and according to the provisions in Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **thenukeproof.com**: Transferred

PANELLISTS

Name	**Rodolfo Rivas Rea**

DATE OF PANEL DECISION 2025-10-10

Publish the Decision