

## **ADMINISTRATIVE PANEL DECISION**

thyssenkrupp AG v. 陈澄 (chen cheng), 山东太钢金钰钢铁集团有限公司  
(shan dong tai gang jin yu gang tie ji tuan you xian gong si)

Case No. D2023-1333

### **1. The Parties**

The Complainant is thyssenkrupp AG, Germany, represented internally.

The Respondent is 陈澄 (chen cheng), 山东太钢金钰钢铁集团有限公司 (shan dong tai gang jin yu gang tie ji tuan you xian gong si), China.

### **2. The Domain Name and Registrar**

The disputed domain name <thyssenkrupp-ss.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2023. On March 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 31, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint in English on April 4, 2023.

On March 31, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 4, 2023, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 27, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on May 11, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a multinational company headquartered in Germany, active in the metals and steel industry. The Complainant was formed in 1999 by the merger of two well known German companies, namely Thyssen and Krupp, both founded in the 19th century. The Complainant has large global business operations with more than 96,000 employees and a revenue of more than EUR 41 billion in fiscal year 2021/2022.

The Complainant provides evidence that it owns an international portfolio of trademark registrations for THYSSENKRUPP. Examples of such registrations include International Trademark Registration number 1342637 for the word mark THYSSENKRUPP, registered on January 29, 2016, and designating *inter alia* China and Viet Nam; and International Trademark Registration number 713857 for the word mark THYSSENKRUPP, registered on April 29, 1999, and also designating *inter alia* China and Viet Nam. The relevant registered trademarks adduced by the Complainant were successfully registered prior to the date of registration of the disputed domain name by the Respondent, which is December 9, 2022.

The Complainant submits evidence that the disputed domain name directs to an active website, where the Respondent presents itself as the company "Krupp steel industry Co. Ltd." and provides information about, and offers for sale an array of steel sheet products and other metal products.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant essentially contends that the disputed domain name is confusingly similar to its trademarks for THYSSENKRUPP, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant claims that its trademarks are famous, intensively used, and well-regarded in the steel sector. The Complainant provides evidence that the disputed domain name is linked to an active website, where the Respondent presents itself as the company "Krupp steel industry Co. Ltd." and provides information about, and offers for sale an array of steel sheet products and other metal products. In this context, the Complainant essentially claims that the Respondent is unlawfully using the Complainant's trademarks to attract unsuspecting Internet users for commercial gain to its website. The Complainant also contends that the Respondent appears to be using the disputed domain name in order to capitalize on the Complainant's established goodwill and brand recognition. The Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amendment to the Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in Chinese and in English and in a timely manner to present his/her comments and response in either Chinese or English, but chose not to do so); the fact that the disputed domain name is written in Latin letters and not in Chinese characters and the fact that the website linked to the disputed domain name is available in English (among other languages) and not in Chinese; and, finally, the fact that Chinese as the language of the proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

### **6.2. Discussion and Findings on the Merits**

The Policy requires the Complainant to prove three elements:

- (a) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (c) the disputed domain name has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

#### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has provided sufficient evidence that it has valid rights in its marks for THYSSENKRUPP, based on its longstanding use and registration of the same as trademarks in several jurisdictions, as stated above.

Further, as to confusing similarity of the disputed domain name with the Complainant's THYSSENKRUPP marks, the Panel finds that the disputed domain name consists of the combination of two elements, namely the Complainant's THYSSENKRUPP trademark followed by the suffix "-ss". According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant

feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing” (see also *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). The Panel concludes that, in this case, the disputed domain name contains the entirety of the Complainant’s trademark for THYSSENKRUPP, which remains easily recognizable, and the disputed domain name is therefore confusingly similar to the Complainant’s THYSSENKRUPP marks. The Panel also considers that the generic Top-Level Domain (“gTLD”), which is “.com” in this case, is viewed as a standard registration requirement, and may as such be disregarded by the Panel (see [WIPO Overview 3.0](#), section 1.11.1).

Accordingly, based on the above elements, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks. The Panel decides that the Complainant has satisfied the requirements of the first element under the Policy.

## **B. Rights or Legitimate Interests**

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to an active website, where the Respondent presents itself as the company “Krupp steel industry Co. Ltd.” and provides information about, and offers for sale an array of steel sheet products and other metal products. The Panel notes that this means that the Respondent is using the Complainant’s internationally well known trademarks in the disputed domain name to offer products to unsuspecting Internet users that are in direct competition to the Complainant’s products, without displaying any disclaimer of any kind about its lack of connection to the Complainant. This shows the Respondent’s intention to divert consumers for commercial gain to such website, by taking unfair advantage of the goodwill and reputation of the Complainant’s trademarks. It is clear to the Panel from the foregoing elements that the Respondent is not acting as a good faith provider of goods or services under the disputed domain name (see *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) and that there are also no other apparent circumstances indicating or conferring any rights or legitimate interests in the disputed domain name on the Respondent. Moreover, the Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant, as it effectively impersonates the Complainant, see [WIPO Overview 3.0](#), section 2.5.1.

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

## **C. Registered and Used in Bad Faith**

The Panel considers that by registering the disputed domain name, which the Panel sees as a clear attempt to squat a domain name confusingly similar to the Complainant’s internationally famous trademarks, the Respondent deliberately and consciously targeted the Complainant’s prior, famous trademarks for THYSSENKRUPP. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anel have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Furthermore, the Panel also notes that the Complainant’s trademarks for THYSSENKRUPP were registered decades before the registration date of the

disputed domain name. The Panel deduces from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. The Panel also notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for THYSSENKRUPP and is also commercially active in the Respondent's jurisdiction, China. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

Further, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to an active website, where the Respondent presents itself as the company "Krupp steel industry Co. Ltd." and provides information about, and offers for sale an array of steel sheet products and other metal products. The Panel notes that this means that the Respondent is using the Complainant's internationally well known trademarks in the disputed domain name to offer products to unsuspecting Internet users that are in direct competition to the Complainant's products. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to the website associated with the disputed domain name, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <thyssenkrupp-ss.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date: May 19, 2023