

## **ADMINISTRATIVE PANEL DECISION**

Suse LLC v. Capra Host  
Case No. D2025-0567

### **1. The Parties**

The Complainant is Suse LLC, United States of America ("United States"), represented by Chestek Legal, United States.

The Respondent is Capra Host, United States.

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

The disputed domain name <rke2.com> is registered with Cosmotown, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 13, 2025. On February 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 19, 2025, 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 (Private Whois) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 on February 20, 2025.

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 February 21, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2025.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on March 19, 2025. 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 Massachusetts (United States) limited liability company with a principal place of business in Pleasant Grove, California, United States. The company is part of the SUSE information technology group formed in 1992 and based in Luxemburg, which acquired California-based Rancher Labs in 2020. The group operates a corporate website at “www.suse.com”.

“RKE” is an acronym for “Rancher Kubernetes Environment”. RKE2 is a version of the Complainant’s RANCHER software designed for the United States federal government trade sector and distributed using the Kubernetes open-source software platform for automating software deployment over clusters of systems and users.

The Complainant makes RKE2 software applications and documentation available for download on an open-source basis from or through its website at “www.rke2.io” (the “Complainant’s RKE2 website”), in some instances linking to third-party download sites such as GitHub. The Complainant provides related software implementation, consulting, and development services and additional information software products.

The Complainant holds United States and international trademark registrations for SUSE RANCHER, and RANCHER PRIME in connection with the software and services described above. However, the Complainant has not registered RKE2 as a trademark. Instead, the Complainant asserts common law rights in RKE2 as an unregistered word mark as early as May 7, 2020, when the Complainant first released RKE2 on GitHub. The Complainant attaches Docker Hub records showing that by February 5, 2025, the RKE2-runtime software had been downloaded more than 50 million times. The Complainant also attaches examples of media recognition in stories from 2021 and 2022 showing information technology industry and government agency acceptance of the Complainant’s RKE2 offerings, as well as social media posts and videos by third parties publishing tutorials on the use of the Complainant’s RKE2 software.

The Registrar reports that the disputed domain name was created on September 18, 2024, and was registered in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent “Capra Host”, listing a postal address in the State of California, United States and a contact email address using the domain name <caprahost.com>. That domain name belongs to a service provider that offers web hosting and email forwarding services to its customers. Thus, the identity of the underlying registrant of the disputed domain name remains obscured, and that party has not replied to communications from the Center or submitted a Response in this proceeding.

The disputed domain name resolves to a website (the “Respondent’s website”) headed “RKE2” with the tagline “Secure and Compliant Kubernetes for All Environments”. The page goes on to advertise these benefits:

“Deploy RKE2, the next-generation Kubernetes distribution, designed to deliver secure and compliant infrastructure....

RKE2 ensures seamless, secure connectivity across environments, meeting the highest standards of the U.S. Federal Government and beyond. With features like FIPS 140-2 compliance, SELinux policy enforcement, and regular vulnerability scanning, RKE2 keeps your Kubernetes clusters safe and compliant.”

The home page of the Respondent’s website includes “Download” links, which actually link (without attribution) to the Complainant’s websites where Internet users can download the RKE2 software. The Respondent’s website pages and metadata also display the Complainant’s registered RANCHER and SUSE marks and the Complainant’s common law RKE2 mark in multiple places. The Respondent’s website appears to copy or paraphrase information about RKE2 from the Complainant’s website and other sources.

Numbers are displayed at the bottom of the “About Us” page of the Respondent’s website, associated with vague descriptions such as “8,600+ Successfully empowering organizations with compliant deployments”

and “6,050+ Simplifying cluster management for users worldwide”. No actual clients are mentioned by name here. On the home page, under “Testimonials Clients”, there is a single quotation next to a photo and man’s name. This is displayed over a running series of images of different logos. All, however, display the same name, “Logoipsum”, which is a website that offers “free placeholder logos”.

The Respondent’s website is replete with what appear to be stock photos and generic statements such as, “We Have the Best Mission”, and “Continuously improve and innovate to support our users effectively.”

The “About Us” page of the Respondent’s website implies that the website is operated by an entity called “RKE2”. “At RKE2, we are dedicated to providing the most secure and compliant Kubernetes distribution available.”

Similarly, the copyright notice and the “Terms and Conditions” and “Privacy Policy” pages all refer to the website operator simply as “RKE2”.

Visitors to the Respondent’s website are encouraged to submit their names and email addresses via a web contact form on the “Contact Us” page. The postal address shown on that page for “RKE2” in Houston, Texas, United States does not appear on Google Maps. The Panel notes that the online database of the Texas Secretary of State does not list a registered legal entity with a name corresponding to “RKE2”.

## **5. Parties’ Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to its common law RKE2 mark, with which the Respondent is clearly familiar, given the Respondent’s copying of that mark and the Complainant’s registered RANCHER and SUSE marks and the Respondent’s descriptions of the Complainant’s software and linking to the Complainant’s download sites. The Complainant argues that the Respondent’s efforts to impersonate the Complainant and obscure the Respondent’s identity cannot underpin a bona fide commercial offering or reflect good faith registration and use. The Complainant contends that the Respondent is only using the disputed domain name to mislead Internet users by creating a likelihood of confusion with the Complainant.

### **B. Respondent**

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

## **6. Discussion and Findings**

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Panel finds the Complainant has established unregistered trademark or service mark rights in RKE2 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. The record shows that the mark was in use online by May 2020 and quickly became widely known, with millions of downloads and industry and media attention associating the mark with the Complainant. The Complainant provides commercial products and

services relating to the RKE2 software, but notably even the open-source distribution of RKE2 software to the public without licensing fees is treated under United States law as “use in commerce” sufficient to establish common law trademark protection. See, e.g., *Planetary Motion, Inc. v. Techsplosion, Inc.*, 261 F.3d 1188 (11th Cir. 2001).

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. The Respondent publishes a website associated with the disputed domain name linking to the Complainant’s download sites, copying information from several sources about RKE2 software and referring to the Respondent’s “team of experts”, without furnishing details about what services those experts provide. As detailed above, the website is imitative of the Complainant and has indicia of fraud; on this record, it cannot be deemed a bona fide offering of goods or services under the Policy, paragraph 4(c)(i). There is no supporting evidence that the purported website operator, “RKE2” of Houston, Texas actually exists or is doing a legitimate business via this website.

Moreover, panels have held that the use of a domain name for illegitimate or illicit activity, here claimed to be impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent was clearly aware of the Complainant and its marks, displaying three of the Complainant’s marks repeatedly in the Respondent’s website and metadata as well as linking to the Complainant’s download sites. As detailed above, the Respondent’s website is imitative of the Complainant and bears the hallmarks of deception in many particulars. Along with registering a disputed domain name identical to the Complainant’s mark, these circumstances accord with the example of bad faith given in the Policy, paragraph 4(b)(iv): attempting to create confusion with the Complainant’s mark

to attract Internet users for commercial gain. The Panel considers it likely that the Respondent chose the disputed domain name and mounted the associated website to phish for personal information and initiate contacts leading to sales, either under false pretenses of an association with the Complainant or possibly outright fraud. The inference of bad faith is reinforced by the facts that the Respondent effectively obscured its identity in registering the disputed domain name and in operating the website, as well as by the Respondent's failure to reply to communications or to submit a Response in this proceeding.

Panels also have held that the use of a domain name for illegitimate or illicit activity, here claimed to be impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of 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 <rke2.com> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: March 31, 2025