

## **ADMINISTRATIVE PANEL DECISION**

TTTech Computertechnik AG and TTTech Nexus GmbH v. Vyacheslav Monogarov

Case No. D2025-1066

### **1. The Parties**

The Complainants are TTTech Computertechnik AG, Austria (“First Complainant”), and TTTech Nexus GmbH, Austria (“Second Complainant”), represented by Gassauer-Fleissner Rechtsanwälte GmbH, Austria.

The Respondent is Vyacheslav Monogarov, Russian Federation.

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

The disputed domain names <tttech-zyne.com> and <tttechzyne.com> are registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2025. On March 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 18, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy / Personal data, can not be publicly disclosed according to applicable laws) and contact information in the Complaint. The Center sent an email communication to the Complainants on March 18, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on March 21, 2025.

On March 18, 2025, the Center informed the parties in Russian and English, that the language of the registration agreement for the disputed domain names is Russian. On March 21, 2025, the Complainants confirmed their request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainants’ submission.

The Center verified that the Complaint together with the amended 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 in Russian and English of the Complaint, and the proceedings commenced on March 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 16, 2025.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on April 23, 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 Complainants are TTTech Computertechnik AG and TTTech Nexus GmbH. The First Complainant is the majority shareholder in, and controlling company of the Second Complainant. The First Complainant entered into a joint venture with VERBUND AG ("VERBUND"), a company which is Austria's largest energy provider. The joint venture operates under the name "TTTech ZYNE".

The Complainants hold trademark registrations for the marks TTTECH, notably European Union word trademark TTTECH (EUTM 018119680), registered on January 11, 2020 for goods in classes 7 and 9 and services in classes 41 and 42, held by the First Complainant; and United Kingdom word trademark TTTECH (UK00918119680), registered on January 11, 2020 for goods in classes 7 and 9 and services in classes 41 and 42, held by the First Complainant.

The Second Complainant has filed an application for European Union word ZYNE trademark (EUTM 019130951), filed on January 14, 2025, for goods in classes 4 and 9 and services in classes 35, 36, 39, 41, and 42, but it is not yet registered.

The first Complainant registered its own domain name <tttech.com> on November 28, 1997.

The disputed domain names were registered on January 20, 2025. The second Complainant and VERBUND publicly announced their TTTech ZYNE joint venture on January 15, 2025.

At time of this Decision, same as at time of filing, the disputed domain names resolve to websites that provide a contact form and more recently an 'Under construction' notice which is further referred to below.

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

##### **A. Complainants**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that the disputed domain names contain a combination of the TTTECH and ZYNE trademarks in their entirety and that they are recognizable in the disputed domain names. The use of a hyphen between the trademarks does not prevent finding of confusing similarity, according to the Complainants. The Complainants contend that therefore the disputed domain names are either identical or highly confusingly similar to both their trademarks.

The Complainants have never licensed, contracted, or otherwise permitted anyone to apply to register the disputed domain names that incorporate their trademarks. Furthermore, there is no evidence, the Complainants assert, that the Respondent has been or is using the disputed domain names incorporating the TTTECH and ZYNE trademarks for a bona fide offering of goods or services, nor is there any evidence of either the Respondent (or anyone besides the Complainants) being known by the name "tttech", "zyne" or the disputed domain names, nor having used them in a manner consistent with fair use.

The Second Complainant and VERBUND announced, inter alia in articles dated January 15, 2025, on the Complainants' website and on VERBUND's website, that the Second Complainant and VERBUND were launching a joint venture under the name "TTTech ZYNE". The Second Complainant accordingly filed the ZYNE trademark on January 14, 2025. The Complainants point out that as with all European Union trademark applications, the application concerning the ZYNE trademark became publicly available in the trademark database eSearch of the European Union Intellectual Property Office ("EUIPO") shortly after filing. Within a few days of that time, the Respondent had registered both disputed domain names.

The Complainants also refer to the text which presently appears on the website to which the disputed domain names either resolve or link which states "Under construction. The project is not commercial, does not represent or use any trademark or service mark or place of origin of goods. The project does not intend to mislead consumers or damage the reputation of any trademark." The Complainants say that this accompanying text appeared soon after a notification letter was sent to the Respondent requesting transfer of the disputed domain names. The Complainants contend that the Respondent has attempted to pretend that the disputed domain names have not been registered or used in bad faith, while in reality such bad faith is evident. Further, and irrespective of the notice on the relevant website, the Complainants contend that such unauthorized use of the TTTECH and ZYNE trademarks causes consumers to erroneously believe that the Complainants are somehow affiliated with the Respondent or endorse its activities or are responsible for the content on the relevant website under, while in fact no such relationship exists.

The Complainants say that they have established a prima facie case that the Respondent lacks rights or legitimate interests. The Respondent has not rebutted the Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise. Rather, the Complainants say that in light of the above, it is evident, that the Respondent has no rights or legitimate interests, since he is not making any legitimate noncommercial or fair use of the disputed domain names and rather has registered and used the them solely with intent for commercial gain, such as by selling them to the Complainants, to misleadingly divert consumers, and/or to tarnish the TTTECH trademark and the ZYNE trademark.

The Complainants point out that the TTTECH and ZYNE trademarks are highly distinctive. In particular, the TTTECH trademark is widely known in their specific business sector and the Complainants are also strongly present all over the world, in particular through online web presence. On that basis alone, the Complainants maintain, the Respondent should have known about the TTTECH and ZYNE trademarks as well as the Complainants when registering the disputed domain names.

The Complainants also reiterate that the Respondent registered the disputed domain names a few days after the ZYNE trademark filing becoming public on the EUIPO eSearch function and the joint venture announcement. The Complainants contend that it is therefore obvious that the Respondent already planned at this point to use both of the disputed domain names with intent for commercial gain, such as by selling them to the Complainants, to misleadingly divert consumers or to tarnish the TTTECH and ZYNE trademarks.

The Complainants further maintain that the Respondent obviously understood the notification letter received from the Complainants as, soon after, a notice was added to the relevant website in the terms noted above. With this notice, the Respondent has attempted to pretend that the disputed domain names have not been registered or used in bad faith, while such bad faith is evident, and the website is in the result grossly misleading. The Complainant also points out that the website accessible under the disputed domain names contains contact forms where users can fill in "Name", "Phone", "E-mail" and "Comment". The Complainants assume that the data provided by users is used for fraudulent or illegitimate purposes.

Further, the Respondent has previously registered other domain names in close temporal connection with a press release, the Complainants assert. These registrations were the subject of UDPR proceedings, in particular, in *Chevron Intellectual Property LLC v. Vyacheslav Monogarov*, FORUM Case No. FA2110001968964. As in the present UDPR proceeding, the Respondent registered several domain variants that include third-party trademarks, with and without commas, and did so through the same Registrar, the Complainants point out. The websites under the disputed domain names also contained

constructive notices. In the previous UDRP case, the Respondent registered the domain names on the same day that the complainant, a large company in the energy sector, announced a joint venture with another company. According to the Complainants, this shows a clear pattern of the Respondent registering domains in bad faith, through the same Registrar, on the day of or shortly after the publication of press releases, containing trademarks of third-party companies without their consent, without the Respondent himself having any legitimate interest or rights to the domain name.

Furthermore, according to the Complainants it is also apparent that the Respondent acted in bad faith because he concealed its identity with regard to both disputed domain names and deliberately chose a Registrar whose website and terms and conditions are only available in Russian. This was in order to burden the Complainants with as much effort as possible in taking action against the Respondent, the Complainants contend.

Finally, the Complainants point to the fact that the Respondent failed to respond to the Complainants' notification letter and also did not provide any evidence of actual or contemplated good-faith use. It did not file a Response.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, on the web page to which the disputed domain names either link or resolve, a notice appears asserting that "The project is not commercial, does not represent or use any trademark or service mark or place of origin of goods. The project does not intend to mislead consumers or damage the reputation of any trademark." Nothing is provided by the Respondent concerning or supporting these assertions.

## **6. Discussion and Findings**

### **Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainants requested that the language of the proceeding be English for several reasons. The Complainants point to the fact that both disputed domain names contain an English language word ('tech'); that the websites to which the disputed domain names either link or resolve are in the English language, in particular the contact form and the 'Under construction' notice and two accompanying English language sentences claiming the 'project' not to be commercial and not to be misleading or damaging to any trademark; and that the said sentences appeared soon after the Respondent was sent a notification letter in English by the Complainants, which the Respondent must thus have understood. Further the Complainants say that they would be put to great expense and delay if the Complaint and proceeding were to be in Russian. The Complainants emphasize that proceedings under the UDRP are intended to be expeditious.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## **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 Complainants have shown rights in respect of the registered trademark TTTECH for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel notes that the Complainants have filed a trademark application for ZYNE, however, a pending trademark application would not by itself establish trademark rights within the meaning of UDRP paragraph 4(a)(i).

The Panel finds that both the Complainants' mark is recognizable within the disputed domain names. Most relevantly, the registered trademark TTTECH is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The notice that appears on the relevant website linked to the disputed domain names, amounts to no more than a bare assertion without any supporting evidence or referenced actual activities. Where it says that 'the project' does not use any trademark, it is clearly false since the domain names of the relevant websites contain such a trademark or trademarks. It is in any case difficult to see how any putative project, of which there is no actual proof proffered, could do anything other than mislead consumers given the composition of the domain names that point to the relevant website. The combination of highly distinctive trademark with one of the Complainant's trademark applications in the disputed domain names is itself highly unusual and eye-catching, and the combination is also strongly evocative of the joint venture which the Complainants have entered into with VERBUND.

Further, the Panel notes that there are contact forms on the website where users can fill in "Name", "Phone", "E-mail" and "Comment". Noting the circumstances of the case, it is more likely than not that such information would be used for nefarious purposes in the hands of the Respondent. Panels have held that the use of a domain name for an illegitimate activity, such as here the gathering of Internet user information through online 'forms', 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 it is apparent that the Respondent registered the highly distinctive domain names soon after the relevant joint venture partners made their first public announcement. The individual trademarks are highly distinctive and have an extensive reputation, and their combination as in the disputed domain names is even more striking and unique. Nothing indicates that the Respondent has any legitimate rights in the relevant trademarks or their joint venture-related combination. Taken into account also the fact that the Respondent has engaged in similar conduct previously, never responded to the Complaint or the Complainants' notification letter, and likely deliberately inserted a disingenuous notice on the relevant website soon after receiving notification from the Complainants, it is apparent that the Respondent acted in bad faith. The Respondent's objective was, on the balance of probabilities, to derive some profit from selling the disputed domain names to the Complainants, or using them to mislead Internet users into thinking there was some legitimate connection between the Respondent and the Complainants, or their recently established joint venture. No such connection exists.

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 names <tttech-zyne.com> and <tttechzyne.com> be transferred to the Complainant.

*/William A. Van Caenegem/*

**William A. Van Caenegem**

Sole Panelist

Date: May 7, 2025.