

ADMINISTRATIVE PANEL DECISION

Greenstone Group FZ-LLC v. James Lodge
Case No. DAE2022-0001

1. The Parties

The Complainant is Greenstone Group FZ-LLC, of United Arab Emirates ("UAE"), internally represented.

The Respondent is James Lodge, France.

2. The Domain Name and Registrar

The disputed domain name <greenstone.ae> is registered with AE Domain Administration (.aeDA).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 2, 2022. On March 3, 2022, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On March 4, 2022, AE Domain Administration (.aeDA) transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the "Policy"), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the "Rules"), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 18, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was April 7, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on April 9, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on April 18, 2022. 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.

The Panel issued Procedural Order No.1 on May 10, 2022, inviting comments from both parties. The Complainant responded on May 11, 2022. The Respondent did not reply.

4. Factual Background

The Complainant was established in the UAE on May 19, 2011. It supplies financial services under the names “Greenstone” and “Greenstone Equity Partners” in the UAE, as well as in the countries comprised in the Gulf Cooperation Council (“GCC”).

The Complainant owns a number of registered trade marks for GREENSTONE including figurative UAE trade mark no. 225142, filed on January 15, 2015, registered on April 29, 2015, in class 36.

The Respondent registered the disputed domain name on November 20, 2011.

According to the Wayback Machine at “www.archive.org”,¹ the disputed domain name has been used as follows.

As of May 17, 2013, the disputed domain name resolved to a website headed “Greenstone Managed Funds”. The homepage stated as follows:

“Introduction to Greenstone Management Service Ltd

Greenstone Management Service Ltd was established by James Lodge as a personal investment offshore investment company.

I started trading in 2008 trading soft commodities, as I had an understanding from my agriculture background. The lessons learnt from this early trading were then applied to the forex market as the increased liquidity provides the returns on smaller account size. I have now traded full time in the forex market for 3 years. Given the interest and requests I decided to start the investment fund to provide the opportunity for investors to receive a good return on capital.

The emphasis of my investment strategy is to provide consistent returns for investors, irrespective of the general economic climate. This is achieved through investing in a diversified portfolio of currencies. An investment in a currency fund is becoming an important component of well-diversified portfolios, as investors recognize the benefits of broad, global exposure to many different economies. The investment objective of the fund is to achieve consistent capital appreciation over a medium to long term investment horizon.”

From May 2014 to October 2016, the disputed domain name resolved to a webpage with a notice stating that the website was down for maintenance.

As of August 3, 2018, the disputed domain name redirected to a website at “www.stronvarcapital.com”. The website was headed, and apparently operated by, a business called “Stronvar Capital” (“Stronvar”), which described itself as a registered brokerage and asset management firm and provided an address in Tbilisi, Georgia, plus a Georgian phone number.

The same redirect was in place as of July 3, 2019, but with some changes to the website, which was now branded “Stronvar Capital Partners” with a different address, in Tallinn, Estonia, plus an Estonian phone number.

As of April 27, 2022, the disputed domain name resolved to an “Account Suspended” notice.

¹ Section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) notes that UDRP panels may undertake limited factual research into matters of public record if they consider such information useful in assessing the merits of the case and reaching a decision. This includes visiting the website linked to the disputed domain name and consulting historical resources to see how the disputed domain name may have been used in the relevant past.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

The disputed domain name is identical to the Complainant's trade mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant has not authorised the Respondent to use its mark or register the disputed domain name.

The Respondent does not use "Greenstone" as a corporate or trading name. Nor does the Respondent own any relevant trade mark in the UAE or GCC.

The factors set out below indicate that the disputed domain name was not set up by the Respondent in connection with a *bona fide* offering of goods or services.

The disputed domain name has been registered and is being used in bad faith.

Until recently, the disputed domain name automatically redirected users to Stronvar, an Estonian company, which has no connection with the UAE, including not being licensed in the UAE, not owning a UAE trade mark and providing no goods or services in the UAE.

There is outwardly no connection between Stronvar and the name "Greenstone". Despite this, persons seeking further information about Stronvar were directed to contact "info@greenstone.ae". As at the date of submission of the Complaint, Stronvar's own website is no longer active.

The Complainant has no connection with Stronvar and has not authorised it to use the Complainant's trade mark or register the disputed domain name.

The following circumstances indicate that the disputed domain name was set up to deliberately disrupt the Complainant's business and/or to create a likelihood of confusion with Stronvar for commercial gain and/or to imply that the Complainant endorsed Stronvar: the automatic redirect to Stronvar; the similarities between the name "Stronvar Capital Partners" and "Greenstone Equity Partners"; the fact that Stronvar held itself out as conducting a similar business to the Complainant; the fact that neither Respondent nor Stronvar conducts any business in the UAE or operates under the name "Greenstone"; and the fact that Stronvar's email address includes the word "Greenstone", which is identical to the Complainant's name and trade mark.

B. Respondent

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

C. Complainant's response to Procedural Order No. 1

In response to Procedural Order No.1 drawing attention to the Registrar's clarification that the disputed domain name was registered on November 20, 2011, and to the use of the disputed domain name for a purported investment business "Greenstone Management Service Ltd" as of May 2013, the Complainant stated that it started trading on May 19, 2011, and reiterated its assertion that the Respondent did not use the name "Greenstone" in the UAE or GCC, and that the Respondent did not now own any registered trade mark for "Greenstone" in those territories.

6. Discussion and Findings

Under the Policy,² the Complainant is required to prove on the balance of probabilities that:

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

A. Identical or Confusingly Similar

The Complainant owns a figurative trade mark. Section 1.10 of [WIPO Overview 3.0](#) states that, in the case of figurative trade marks, assessment of confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark and that design or figurative/stylised elements which are incapable of representation in domain names are largely disregarded. Here, disregarding the Top-Level Domain (“TLD”) suffix, the disputed domain name is identical to the textual element of the Complainant’s mark GREENSTONE.

Accordingly, the Panel finds that the Complainant has established the first element of paragraph 6(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 6(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraphs 6(c)(i) and (ii) of the Policy, as explained in section 6(c) below, the Respondent has not come forward with relevant evidence demonstrating that the recent use of the disputed domain name to redirect to the Stronvar website constitutes a *bona fide* offering of goods or services.

Nor is there any evidence that paragraph 6(c)(iii) of the Policy applies in the circumstances of this case.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 6(a) of the Policy.

C. Registered or is Being Used in Bad Faith

Unlike under the UDRP, it is sufficient if the Complainant establishes that the disputed domain name has been either registered or used in bad faith.

The key issue for the Panel to consider is the likelihood or otherwise that the Respondent either selected or used the disputed domain name with the Complainant in mind.

On the one hand, the Panel notes that the Complainant began trading only six months before the disputed

² Although [WIPO Overview 3.0](#) is directed to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), given the similarity between the UDRP and the Policy, it is appropriate to have regard to these principles except to the extent that the Policy diverges from the UDRP.

domain name was registered, on November 20, 2011, and that the Complainant has not provided any evidence indicating that it had acquired a significant reputation within that short period.

On the other hand, while the Respondent's address is in France, his use of the ".ae" TLD suffix indicates that he was targeting the UAE, and it seems an unlikely coincidence that two UAE-connected businesses would independently select the made-up name "Greenstone" for broadly similar financial services within six months of each other.

At the very least, the Panel considers that this situation calls for an explanation from the Respondent, as does his use of the disputed domain name for a website purportedly operated by "Greenstone Management Service Ltd" and branded "Greenstone Managed Funds". While at first glance this looks like it could be a genuine financial website operated by "a personal investment offshore investment company", the site does not appear to provide any address or location for the alleged company, let alone the kind of regulatory information that one would normally expect to find on this kind of website. Also, much of the content on the site looks somewhat formulaic. This raises the question as to whether a company called Greenstone Management Service Ltd actually existed at the time and, even if so, whether the Respondent's corporate/trading names were nonetheless part of a scheme to target the Complainant along with the disputed domain name, rather than independently-adopted business names.

Further questions for the Respondent include: why use of the website by Greenstone Management Service Ltd appears to have lasted only a year or so; why the site apparently remained inactive for some four years thereafter; why the disputed domain name was then redirected to Stronvar, another financial services business, variously described as "Stronvar Capital" and "Stronvar Capital Partners", apparently unconnected with the UAE; and what was the relationship, if any, between Stronvar and the Respondent. The Panel also notes that at different times the Stronvar website provided different addresses and phone numbers in different countries – Estonia and Georgia. Also, some of the content on the Stronvar site appears odd. For example, a client quote under the heading "WHAT OUR CLIENTS SAY" looks like random bitcoin-related text; certainly, it says nothing about Stronvar.

It may be that there is a plausible explanation for all of the above matters that is consistent with the Respondent's legitimate selection and use of the disputed domain name independently of the Complainant. But, in the absence of any clarification from the Respondent, these factors create the overall impression that the disputed domain name was registered as part of an illicit scheme designed to target the Complainant's name and mark.

Even if the Respondent did originally register the disputed domain name in good faith for use by a genuine and legitimate company called Greenstone Management Service Ltd, the Panel nonetheless considers that the recent unexplained redirect to Stronvar is likely to have been an act of bad faith – certainly there is no immediately obvious reason why anyone would redirect a "greenstone" domain name with an ".ae" TLD suffix to the website of company trading under the name "Stronvar" except to draw traffic from users seeking the Complainant. By the time that the Stronvar redirect started, Greenstone Management Service Ltd had apparently stopped trading at least four years earlier (assuming it ever traded). Even if the Respondent did not know of the Complainant when he registered the disputed domain name, it seems inconceivable that he was still unaware of it by the time he redirected the disputed domain name some five years later. Accordingly, irrespective of the Respondent's original purpose in registering the disputed domain name and for the reasons explained above, it seems likely that the Stronvar redirect was a bad faith attempt by the Respondent to draw traffic by confusing users seeking the Complainant.

For the above reasons, the Panel considers that, on the balance of probabilities, the Respondent registered and/or used the disputed domain name in bad faith with a view to creating a likelihood of confusion with the Complainant's mark and that the Complainant has therefore established the third element of paragraph 6(c) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the domain name <greenstone.ae> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Panelist

Date: May 31, 2022