

ADMINISTRATIVE PANEL DECISION

Hong Kong Sun Rise Trading Limited v. AllenN Hudson
Case No. D2024-2723

1. The Parties

The Complainant is Hong Kong Sun Rise Trading Limited, Hong Kong, China, represented by Abion AB, Sweden.

The Respondent is AllenN Hudson, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <greenworks-store.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2024. On July 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 2024, 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 July 8, 2024, 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 July 9, 2024.


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 July 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2024.

The Center appointed Petra Pecar as the sole panelist in this matter on August 13, 2024. 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, Hongkong Sun Rise Trading Limited, is a corporation headquartered in Hong Kong, China, specializing in the wholesale distribution of industrial machinery and equipment. The Complainant holds trademark registrations for the GREENWORKS, as set forth below:

- United States Registration No. 6890998 for the figurative mark  registered on November 1, 2022 in classes 9 and 11; and
- United States Registration No. 6890996 for the word mark GREENWORKS registered on November 1, 2022 in classes 9 and 11.

The Complainant operates their official website at the domain name <greenworkstools.eu>.

The disputed domain name was registered on April 23, 2024, and at the time the Complaint was filed, the disputed domain name resolved to a website displaying the Complainant's GREENWORKS trademarks and offering products purportedly related to the Complainant at discounted prices.

The Respondent is reportedly an individual from United States.

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 confusingly similar to its registered trademark GREENWORKS. The disputed domain name fully incorporates the GREENWORKS trademark, with addition of a hyphen and the term store, which is descriptive for the Complainant business field. The Complainant argues that these slight variations do not distinguish the disputed domain name from the trademark.

The Complainant argues that the Respondent has no rights to the disputed domain name mimics the Complainant's official website to exploit its trademark for unauthorized commercial gain, creating confusion and harming the Complainant's reputation.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Respondent did not have authorization to use the GREENWORKS trademark, which predates the registration of the disputed domain name. The use of GREENWORKS trademark in the disputed domain name likely aims to exploit the Complainant's established reputation. The disputed domain name closely resembles the Complainant's official site, on which are offered goods similar to the Complainant's at discounted prices, increasing the risk of consumer confusion.

B. Respondent

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

6. Discussion and Findings

As the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

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 Complainant has shown rights in respect of a GREENWORKS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of hyphen and term "store", which is descriptive for the Complainants' business field may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Furthermore, it is well accepted practice by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take gTLD ".com" when assessing confusing similarity of the disputed domain name.

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.

According to the Complainant, it seems that the Respondent is not associated or connected with the Complainant in any way, and the Complainant has not granted the Respondent any license or authorization to use or register any domain name that includes the Complainant's GREENWORKS trademark. The Respondent has further failed to provide a response to the Complaint, thereby failing to present any information or factors that could potentially justify prior rights or legitimate interests in the disputed domain name. Additionally, there appears to be no evidence of the Respondent engaging in any legitimate or genuine use of the disputed domain name, whether for noncommercial or bona fide activities, since the disputed domain name, at the time of the Complaint filing, resolved to a website displaying the Complainant's GREENWORKS trademark and offering products purportedly related to the Complainant at discounted prices, which considering the composition of the disputed domain name creates the impression of a website associated with the Complainant.

Panels have held that the use of a domain name for illegal activity, such as impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Moreover, the Panel notes the composition of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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 registered the disputed domain name after the Complainant had already registered its GREENWORKS trademark. Given the association between the Complainant and the GREENWORKS trademark, and the fact that the disputed domain name closely mirrors the Complainant's official website and has been used to sell goods purportedly as products originating from the Complainant at discounted prices, it is evident that the Respondent was aware of the Complainant and its rights in the GREENWORKS trademark at the time of registering the disputed domain name. Moreover, the content from the website linked to the disputed domain name further evidences that the Respondent had actual knowledge of the Complainant and its GREENWORKS trademark.

The disputed domain name resolves to a website displaying the Complainant's GREENWORKS trademark and offering products purportedly associated with the Complainant at discounted prices. This conduct indicates an intention to mislead Internet users for commercial gain into believing there is a connection with the Complainant, thereby seeking commercial advantage through creation of a likelihood of confusion with the Complainant's trademark.

Additionally, the disputed domain name replicates the Complainant's website design, offers purportedly identical products at discounted prices, and has been reported for fraudulent activities, including non-delivery of goods. Such practices have bad impact on the integrity and reputation of the Complainant.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity as impersonation 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 <greenworks-store.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: August 27, 2024