ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Hong Kong Sun Rise Trading Limited v. Charlie Iqbal, Anna Hyde, Jennifer Bates, Caitlin Barry, and Louis Watkins
Case No. D2024-2018

1. The Parties

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

The Respondents are Charlie Iqbal, Anna Hyde, Jennifer Bates, Caitlin Barry, and Louis Watkins, Germany.

2. The Domain Names and Registrar

The disputed domain names <greenworksbrasil.net>, <greenworkscz.com>, <greenworksdanmark.com>, <greenworksdeutschland.com>, <greenworkseesti.com>, <greenworksjapan.com>, <greenworkslatvija.com>, <greenworksosterreich.com>, <greenworkspolska.com>, <greenworksportugal.com>, <greenworkssslovenija.com>, <greenworkssuisse.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 16, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 20, 2024, 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 (N/A) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 20, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on May 22, 2024.

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 Respondents of the Complaint, and the proceedings commenced on May 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on June 19, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on June 25, 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 is Hongkong Sun Rise Trading Limited, a corporation headquartered in Hong Kong, China. The company owns the brand GREENWORKS which specializes in the wholesale distribution of industrial machinery and gardening equipment.

The Complainant holds numerous trademark registrations for the mark GREEN WORKS, including European Union Registration trademark No. 017163817 for GREENWORKS registered on November 26, 2020 for goods and services in classes 7, 9, 11, 12, 17, 21, 35; Brazilian Registration No. 92035718 for GREENWORKS, registered on June 22, 2020 for goods in class 7, and Swiss Registration No. 718694 for GREENWORKS, registered on July 12, 2018 for goods and services in classes 7, 9, 11, 12, 17, 21, 35.

The Complainant operates several websites under domain names that include GREENWORKS such as <greenworkstools.eu>.

The disputed domain names were all registered on December 13, 2023. At the time of filing of the Complaint, all the disputed domain names resolved to active websites purporting to offer products under the trademark GREENWORKS.

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 names.

Notably, the Complainant contends that all the disputed domain names are confusingly similar to the Complainant’s trademark GREENWORKS. The Complainant’s trademark is thus clearly recognizable within the disputed domain names, and the addition of geographical terms are not sufficient to prevent the confusing similarity.

The Complainant has not licensed or authorized the Respondent to use its trademarks. The Respondent is not affiliated to the Complainant and the Complainant did not authorize the Respondent to register or use the disputed domain names incorporating its respective trademarks nor have the Complainant endorsed or sponsored the Respondent or the Respondent’s website. Furthermore, there is no evidence that the Respondent is commonly known by the disputed domain names or owns any registered trademarks including the term “greenworks”.

The Complainant alleges that the disputed domain names are engaged in the sale of products identical to those offered by the Complainant, mimicking the look and feel of the Complainant's legitimate website, thereby creating confusion among consumers. It is thus evident that the disputed domain names are being utilized as a platform for scams, jeopardizing the reputation and trustworthiness of the Complainant's mark.

The Complainant finally states that the Respondent has registered the and is using the disputed domain names in bad faith. By conducting a simple online search regarding the term “green works”, the Respondent would thus inevitably have learned about the Complainant, its trademark and business, and since the disputed domain names are resolving to a copycat website of the Complainant’s official website, it is self-evident that the Respondent registered and is using the disputed domain names in bad faith.

B. Respondents

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The Complainant thus asserts that all of the disputed domain names are owned by or are under the effective control of a single person or entity, or a group of individuals acting in concert. In support of this assertion, the Complainant underlines the following similarities between disputed domain names:

- all the disputed domain names utilize the Complainant's trademark in the same way, by adding the entire trademark and either a country name in the country’s original language or an international country code;
- all the disputed domain names are registered with the same registrar, indicating a potential connection or common control between the registrants;
- the alleged infringement on the websites under the disputed domain names exhibits similarities, suggesting a concerted effort to replicate and exploit the look and feel of the Complainant's websites;
- all the disputed domain names were registered on the same day, having the same registrant country and city, namely Germany, Berlin.
- Finally, the Complainant takes note that the email addresses of the Registrants are also similar.

Furthermore the disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 4.11.2.

As regards common control, the Panel notes that even though the disputed domain names are registered by five nominally different registrants, the above presented facts clearly support a finding that the disputed domain names and corresponding websites are subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

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 3.0, section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.0, section 1.2.1.

The entirety of the mark is reproduced within all 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.

Although the addition of other terms here, the eleven different country names and one international country code, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. WIPO Overview 3.0, section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

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.

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.

Given the circumstances of the case, including the evidence on record of the use of the Complainant's trademark GREENWORKS, and the distinctive nature of this mark, it is inconceivable to the Panel in the

current circumstances that the Respondent registered the disputed domain names without prior knowledge of the Complainant and the Complainant's mark.

The Panel therefore finds that the disputed domain names were registered in bad faith.

The disputed domain names have all been used to host websites, which clearly gave the Internet users the impression that the websites were the website of the Complainant or a website that was somehow connected to the Complainant, which was not the case. The Panel therefore finds that there can be no doubt that the disputed domain names have been used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website". Paragraph 4(b)(iv) of the Policy, and WIPO Overview 3.0, section 3.1.4.

Noting that the disputed domain names incorporate the Complainant's trademark GREENWORKS, that the Respondent has not replied to the Complainant's contentions and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

The Panel thus finds that the Complainant has also 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 <greenworksbrasil.net>, <greenworkscz.com>, <greenworksdanmark.com>, <greenworksdeutschland.com>, <greenworkseesti.com>, <greenworksjapan.com>, <greenworkslatvija.com>, <greenworksosterreich.com>, <greenworkspolska.com>, <greenworksportugal.com>, <greenworksslovenija.com>, <greenworkssuisse.com> be transferred to the Complainant.

/Knud Wallberg/
Knud Wallberg
Sole Panelist
Date: July 15, 2024