

ADMINISTRATIVE PANEL DECISION

Hong Kong Sun Rise Trading Limited v. Rolando Febres, Greenworks
Case No. D2024-2162

1. The Parties

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

The Respondent is Rolando Febres, Greenworks¹, United States of America.

2. The Domain Name and Registrar

The disputed domain name <greenworks-usa.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 29, 2024, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant did not submit an amendment to the Complaint.

¹ While the Complaint identifies “Registration Private, Domains By Proxy, LLC” as the “Respondent”, the Registrars disclosed “Rolando Febres, Greenworks” as the single underlying registrant. Under paragraph 1 of the Rules, “Respondent” means the holder of a domain-name registration against which a complaint is initiated. Since the Complaint in the present proceeding is initiated against the disputed domain name, and the Registrar has confirmed that Rolando Febres, Greenworks, is the holder of the registration of the disputed domain name, the Panel accepts that Rolando Febres, Greenworks is the proper Respondent in this proceeding. The above ruling does not affect the Mutual Jurisdiction under paragraph 3(b)(xii) of the Rules, since the Complainant has agreed to submit, with respect to any challenges that may be made by the Respondent to a decision by the Panel to transfer or cancel the disputed domain name, to the jurisdiction of the courts at the location of the principal office of the Registrars.

The Center verified that 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 June 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 23, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant specializes in the wholesale distribution of industrial machinery and equipment.

The Complainant holds numerous trademark registrations for GREENWORKS, such as United States of American trademark numbers 90978070 and 90978066, both registered on November 1, 2022.

The Domain Name was registered on May 16, 2024. The Domain Name has resolved to the Registrar’s pay-per-view webpage where also the Domain Name is offered for sale.

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is confusingly similar to the Complainant’s trademark as the Domain Name includes in its entirety the Complainant’s trademark. The addition of “-USA” is not sufficient to prevent confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized, licensed, or permitted to register or use a domain name incorporating the Complainant’s trademark. There is no evidence that the Respondent is commonly known by the Domain Name. The Domain Name resolves to a page featuring pay-per-click links and otherwise not used. This use does not qualify as a legitimate interest for the Respondent.

The Complainant argues that the Respondent has registered the Domain Name with knowledge of the Complainant’s trademark or should have had such knowledge. It is likely that the Respondent registered the Domain Name using the Complainant’s trademark intentionally in order to take advantage of the reputation of the trademark and the Complainant’s goodwill. Moreover, the mere registration of a domain name that is confusingly similar to a well-known trademark by an unaffiliated Respondent creates a presumption of bad faith. The non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. Where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established that it has rights in the trademark GREENWORKS. The trademark is recognizable within the Domain Name. The Domain Name adds "-usa". The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. In addition, the composition of the Domain Name is misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

The Respondent most likely knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition of the Domain Name. The Respondent has not offered any explanation as to why it registered the Domain Name, nor provided any evidence of actual or contemplated good faith use of the Domain Name. The Respondent has tried to attract Internet users, for commercial gain, by creating a

likelihood of confusion with the Complainant's trademark. This is underlined by the use of the Domain Name for linking to pay-per-click links, and any subsequent non-use of the Domain Name does not change this.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <greenworks-usa.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: August 1, 2024