

ADMINISTRATIVE PANEL DECISION

Hong Kong Sun Rise Trading Limited v. DODSONCLAYTON
Case No. D2024-4645

1. The Parties

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

The Respondent is DODSONCLAYTON, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <greenworkspowerstore.shop> (the "Disputed Domain Name") is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 12, 2024. On November 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 14, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 amended Complaint on November 14, 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 Respondent of the Complaint, and the proceedings commenced on November 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 9, 2024.

The Center appointed Mariia Koval as the sole panelist in this matter on December 12, 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, founded in 2001, is a corporation headquartered in Hong Kong, China, which specializes in the wholesale distribution of industrial machinery and gardening equipment.

The Complainant is the owner of a number of GREENWORKS trademark registrations (the “GREENWORKS Trademark”) throughout the world, among which are:

- United States Trademark Registration No. 6890998, registered on November 1, 2022, in respect of goods in classes 9 and 11;
- United States Trademark Registration No. 6996861, registered on March 7, 2023, in respect of goods in class 12;
- United States Trademark Registration No. 6997902, registered on March 7, 2023, in respect of goods in classes 7, 9 and 11.

The Complainant enjoys a strong online presence, in particular the Complainant operates the domain names <greenworkstools.com> and <greenworkstools.eu>. The Complainant has also made substantial investments to develop a strong presence online by being active on various social media platforms, including Facebook, Instagram and YouTube.

The Disputed Domain Name was registered on July 20, 2024. As at the date of this Decision, the website under the Disputed Domain Name is inactive. However, in accordance with evidence presented by the Complainant (Annex 3 to the Complaint), the Disputed Domain Name previously resolved to a commercial website where goods, fake ones as the Complainant alleges, labeled under the GREENWORKS Trademark, with discounted prices are offered for sale.

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 the Complainant’s GREENWORKS Trademark since the Disputed Domain Name entirely incorporates the Complainant’s Trademark. The Complainant’s GREENWORKS Trademark is clearly recognizable within the Disputed Domain Name, which differs from it only by the addition of the generic words “power” and “store”.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Complainant has not licensed or authorized the Respondent to use its GREENWORKS Trademark;
- the Respondent is not affiliated with the Complainant;

- the Complainant did not authorize the Respondent to register or use the Disputed Domain Name incorporating its GREENWORKS Trademark nor have the Complainant endorsed or sponsored the Respondent or the Respondent's website;
- there is no evidence that the Respondent is commonly known by the Disputed Domain Name or owns any registered trademarks including the term "greenworkspowerstore.shop";
- the Disputed Domain Name is a copycat version of the Complainant's official website, using its photographs and GREENWORKS Trademark;
- the Disputed Domain Name was alleged to be engaged in the sale of products identical to those offered by the Complainant. Notably, the Disputed Domain Name operates with discounted prices, mimicking the look and feel of the Complainant's legitimate website, thereby creating confusion among consumers. However, no genuine products are sold on the website;
- it is evident that the Disputed Domain Name is being utilized as a platform for scams, jeopardizing the reputation and trustworthiness of the Complainant's GREENWORKS Trademark.

The Complainant further claims that the Respondent has registered and is using the Disputed Domain Name in bad faith. The registration of the Complainant's GREENWOKS Trademark pre-dates the registration of the Disputed Domain Name and the Respondent has never been authorized by the Complainant to use the Complainant's GREENWORKS Trademark nor to register the Disputed Domain Name. Nonetheless, the Respondent has chosen to use the distinctive GREENWORKS Trademark in the Disputed Domain Name in its entirety.

It is very likely that the Respondent registered the Disputed Domain Name using the GREENWORKS Trademark intentionally in order to take advantage of the reputation of the Complainant's Trademark and the goodwill free-riding on the Complainant's reputation. Moreover, since the Disputed Domain Name was a copycat website of the Complainant's official website, it is self-evident that the Respondent registered and used the Disputed Domain Name in bad faith, with the clear intent to take a free ride on the Complainant's renown.

The Complainant highlights the fact that the Disputed Domain Name incorporates in its entirety the GREENWORKS Trademark without displaying a disclaimer of affiliation with the Complainant's official website that may mislead the potential consumers by creating a likelihood of confusion with the Complainant's GREENWORKS Trademark as to the source, sponsorship, affiliation and making the general public believe that the paid services advertised on the website were actually official and authorized by the Complainant.

Also, the Complainant asserts that the Respondent is a serial cybersquatter and figured as a respondent in another proceedings.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used 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 trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Disputed Domain Name completely reproduces the Complainant's GREENWORKS Trademark in its entirety in combination with the words "power" and "store", and the generic Top-Level Domain ("gTLD") ".shop". According to the [WIPO Overview 3.0](#), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The addition of the terms "power" and "store" to the GREENWORKS Trademark does not prevent a finding of confusing similarity.

Also, in accordance with [WIPO Overview 3.0](#), section 1.11.1, the applicable gTLD in a domain name (such as, ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Pursuant to [WIPO Overview 3.0](#), section 1.7, in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing.

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's GREENWORKS Trademark pursuant to paragraph 4(a)(i) of the Policy.

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.

The Panel concludes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's GREENWORKS Trademark. Moreover, there is no element from which the Panel could infer the Respondent's right over the Disputed Domain Name, or that the Respondent might be commonly known by the Disputed Domain Name.

The Panel is of the opinion that there is no evidence that the Respondent is using the Disputed Domain Name to offer bona fide goods or services or making a legitimate noncommercial or fair use. On the contrary, as at the date of filing of the Complaint the Disputed Domain Name resolved to the website which offered different machinery and gardening equipment under the GREENWORKS Trademark, under discounted prices. According to the Complainant none of the offered goods under the GREENWORKS Trademark on the Respondent's website are genuine. Moreover, the Respondent's website has the same look and feel as the Complainant's official website's landing page with use of the Complainant's GREENWORKS Trademark. According to the [WIPO Overview 3.0](#), section 2.8.1, UDRP panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied to the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

As is seen from the circumstances of this case, the website under the Disputed Domain Name does not disclose any relationship between the Complainant and the Respondent. The whole design of the Respondent's website creates a false impression that this website is one of the Complainant's official websites or related to the Complainant. Thus, the Respondent does not satisfy the conditions of the Oki Data test.

Moreover, in accordance with the [WIPO Overview 3.0](#), section 2.5.1, where a domain name consists of a trademark plus an additional term (at the second or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The fact that the Respondent has incorporated the Complainant's GREENWORKS Trademark in its entirety in the Disputed Domain Name with the addition of the words "power" and "store", both related to the Complainant's business, to the Complainant's GREENWORKS Trademark in the Disputed Domain Name, is further evidence, that the Respondent was well aware of the Complainant's GREENWORKS Trademark and business at the time of registration of the Disputed Domain Name and has done so for the only purpose of creating an impression that the Disputed Domain Name is connected with the Complainant's GREENWORKS Trademark.

In light of the above, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name. Therefore, the second element of the paragraph 4(a) of the Policy has been met by the Complainant.

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 and is using the Disputed Domain Name in bad faith in view of the following. The Complainant obtained the registration of the GREENWORKS Trademark at least 2 years earlier than the Respondent registered the Disputed Domain Name in 2024. Taking into account all circumstances of this case, the Panel finds that the Respondent was well aware of

the Complainant's business and its GREENWORKS Trademark when registering the confusingly similar Disputed Domain Name that completely incorporates the Complainant's GREENWORKS Trademark. The Panel considers it is bad faith that the Respondent deliberately chose the Disputed Domain Name to create a likelihood of confusion with the Complainant's GREENWORKS Trademark, so as to create a false association or affiliation with the Complainant.

Moreover, the Respondent's knowledge of the Complainant's GREENWORKS Trademark is also supported by the previous use of the Disputed Domain Name for the website, where goods, allegedly fake ones, under the GREENWORKS Trademark were purportedly offered for sale at discounted prices. Moreover, the website under the Disputed Domain Name contained the Complainant's product images. In view of the fact that the Disputed Domain Name resolved to the website displaying the Complainant's GREENWORKS Trademark, Internet users would most likely be misled into believing that the Disputed Domain Name is related to or authorized by the Complainant.

Furthermore, the Disputed Domain Name, reproducing the Complainant's GREENWORKS Trademark in its entirety, is evidently deceptive for Internet users. The Respondent obviously chose to register the Disputed Domain Name, which is confusingly similar to the Complainant's GREENWORKS Trademark, for the purpose of attracting Internet users to its website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website and of the products sold on it.

The Disputed Domain Name currently resolves to an inactive website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the current non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding.

The Panel is also of the opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the Complainant's GREENWORKS Trademark, to purportedly sell the Complainant's, allegedly fake, products, intended to disrupt the Complainant's business and confuse Internet users seeking or expecting the Complainant's website. In view of the absence of any evidence to the contrary and the fact that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

In light of the above, the Panel finds 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 that the Disputed Domain Name <greenworkspowerstore.shop> be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: December 26, 2024