

## **ADMINISTRATIVE PANEL DECISION**

### **Paradise International General Trading LLC v. Kuldeep Singh Case No. D2023-4445**

#### **1. The Parties**

The Complainant is Paradise International General Trading LLC, United Arab Emirates, represented by Abou Naja Intellectual Property, United Arab Emirates.

The Respondent is Kuldeep Singh, United Kingdom.

#### **2. The Domain Name and Registrar**

The disputed domain name <greenwealthaccessreal.com> is registered with Name.com, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 27, 2023, 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 (Domains By Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 2023, 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 2, 2023.

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 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 22, 2023. The Response was filed with the Center on November 21, 2023.

On November 22, 2023, the Complainant submitted an unsolicited supplemental filing. On November 25, 2023, the Respondent submitted its own unsolicited supplemental filing.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on November 29, 2023. 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 claims to be a well-known Emirati company, established in 1989 and a pioneer in the field of the manufacture and marketing of cosmetics, essential oils, hair oils, soaps, shampoos and hair lotions including perfumes and hair lotions based on mint.

The, or one of the, products the Complainant markets is a "Green Wealth" hair lotion or "Green Wealth Neo" hair lotion.

The Complainant markets this product in a predominantly green box which features on the front a device of leaf above the words GREEN WEALTH. There is a depiction of a hair follicle and root embedded in a skin pore and the words "Neo Hair Lotion" in script running vertically up the side. The representations of the Complainant's product included in the Complaint also feature in the top left hand corner a silver, holographic label featuring the "Green Wealth" and leaf device and a second logo or device featuring "Paradise 1989" and a figurative design.

One of the sides features prominently at the top a name or trademark in a non-Roman script which may be Thai lettering. Underneath this the "Paradise 1989" device is depicted. The side bears other text including that the product is distributed by "Green Wealth Health Care Co Ltd, manufactured by Panovision Co. Ltd of Bangkok in Thailand and that the product is "Made in Thailand".

Another side of the packaging includes the name or trademark in non-Roman script, a list of ingredients in English, some Arabic script and How to Use instructions in English.

The Complainant promotes its products from, amongst other things, the website at "www.greenwealth.com". According to the Complaint, its GREEN WEALTH trademark is famous.

The Complaint includes evidence that it owns numerous trademark registrations around the world for GREEN WEALTH or GREEN WEALTH and leaf device. Almost all were filed in 2021 or 2022. By way of example only:

- (a) European Union Trade Mark No. 018449325, GREEN WEALTH, which was filed on April 8, 2021 and registered on July 29, 2021 in respect of hair lotions and cosmetics in International Class 3;
- (b) United Kingdom Registered Trademark No. UK00003642575, GREEN WEALTH, which was filed on May 17, 2021 and entered on the Register on December 3, 2021 in respect of hair lotion and related products in International Class 3;
- (c) both of which claim priority from Indian Trademark Application No. 4787695, GREEN WEALTH, which was filed on December 19, 2020 in respect of hair lotion and related products in International Class 3. That application has been opposed by Krishna Inc of New Dehli, India.

The annexes to the Complaint include evidence of other registrations for this version of the Complainant's trademark in Australia, Hong Kong, China, Israel, Japan, New Zealand, the Russian Federation, Singapore and the United States of America.

According to the Whois report, the disputed domain name was registered on March 13, 2023.

When the Complaint was filed, the disputed domain name resolved to a website which, from the screenshot included in Annex 4 to the Complaint, appeared to offer for sale the same Green Wealth Neo Hair Lotion product as the Complainant offers for sale. The packaging for this product as depicted in this image very closely resembled the packaging of the Complainant's product. Amongst other things, the packaging is a similar, predominantly green colour, states that the product is made in Thailand, distributed by Green Wealth Care Co Ltd and manufactured by Panovision Co. Ltd. In addition to the Green Wealth and device and Neo Hair Lotion trademarks appearing on the front of the packaging, the packaging also includes the non-Roman script name or trademark and the Paradise 1989 "logo" featured on the product sold by the Complainant.

An annexure in the Complaint includes what purports to be comparison of the parties' competing products, highlighting a number of differences. These include some differences in font or text thickness, the quality of colouring such as the hair follicle being more glossy and a different gradient in the green colour of the packaging. Some elements of the packaging are also in slightly different positions or sizes.

The image of the Respondent's product in the comparison to the Complainant's packaging differs from the image of the packaging shown on the Respondent's website in the screenshot included in Annex 4 to the Complaint in at least that the packaging on the Respondent's website appears to feature the silver holographic label that appears on the packaging used by the Complainant.

The Respondent (or more correctly his company, Sammi Group Ltd <sup>1</sup>) has a registered trademark for NEO HAIR LOTION in the United Kingdom, Trademark No. UK00003854429, which was registered with effect from November 29, 2022 (with a registration date of March 3, 2023) in respect of cosmetics and cosmetic preparations. The Complainant also has a registration in the United Kingdom for a device consisting of the front face of the packaging for the Complainant's product including the wording NEO HAIR LOTION, Trademark No. UK00003898026. This trademark was registered with effect from April 6, 2023 in respect of hair lotions, hair tonics, cosmetic hair lotions, shampoo and similar goods in International Class 3 and medicated hair lotions and shampoos in International Class 5. The Complainant has commenced a cancellation proceeding in the United Kingdom Intellectual Property Office against the Respondent's registered trademark.

After the Complaint was filed, the Respondent, or someone purporting to be the Respondent, emailed the Complainant offering to transfer the disputed domain name to the Complainant in return for a payment of GBP 25,000 which was stated to reflect "our investment in acquiring and maintaining the domain, as well as the costs associated with domain transfer and legal consultations."

The disputed domain name no longer resolves to the webpage identified in Annex 4 of the Complaint. Navigating to the address instead generates a 403 error, access denied.

## 5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (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 in bad faith.

---

<sup>1</sup> As the Respondent and this company have the same address, the Panel infers they are related.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

### **A. Supplemental Filings**

Apart from documents requested by the Panel pursuant to paragraph 12 of the Rules, neither the Policy nor the Rules expressly provide for supplemental filings. Their admissibility is therefore in the discretion of the Panel bearing in mind the requirements under paragraph 10 of the Rules to ensure that the proceeding is conducted with due expedition and both parties are treated equally, with each party being given a fair opportunity to present its case.

Where unsolicited supplemental filings are admitted, it is usually because the material corrects some error or addresses something raised in a Response which could not reasonably have been anticipated or which was not otherwise appropriate to deal with until a respondent's position on a particular point was clear.

In the Response, the Respondent contends that the Complainant is not the owner of the trademark as a third party based in Thailand is. The Respondent also points out that the Complainant recently had its Complaint against another third party dismissed: *Paradise International General Trading LLC v. Suwanna Mayeux* WIPO Case No. [D2023-1569](#). The Complainant's supplemental filing submits material seeking to rebut those arguments.

In the *Suwanna Mayeux* case, the learned panelist had evidence that both parties had authorisations from a Dr Paiboon and Green Wealth Health Care Ltd to market that company's Neo Hair Lotion product in different territories. In these circumstances, the learned panelist considered the dispute fell outside the scope of the Policy as "part of a wider and more complex dispute between two distributors, each with an authorisation from the same company in different terms."

As the *Suwanna Mayeux* case involved claims that the Complainant's rights were much more limited in scope than it claims, there may be an argument that the Complainant should have addressed that issue in its Complaint in this proceeding. However, this proceeding involves a different Respondent and, as noted in section 4 above, the Complainant has provided evidence in the Complaint of numerous registered trademarks around the world in its name. In these circumstances, the Panel considers it appropriate to admit the Complainant's unsolicited supplemental filing.

It is also appropriate to admit the Respondent's supplemental filing which addresses the Complainant's supplemental filing.

### **B. Identical or Confusingly Similar**

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant has proven ownership of numerous registered trademarks for GREEN WEALTH in addition to other registrations for GREEN WEALTH and leaf device.

The Complainant also contends that its trademark is famous. The Panel, however, is unable to assess that as the claim is mere assertion unsupported by evidence about the scale and length of use and promotion. See e.g. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.3 (in the context of what is required to prove ownership of a common law or unregistered trademark).

The second stage of this inquiry simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of “likelihood of confusion” under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g. [WIPO Overview 3.0](#), section 1.7.

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.

In undertaking the comparison required for the second stage, it is permissible in the present circumstances to disregard the generic Top Level Domain (“gTLD”) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the “.com” gTLD, the disputed domain name consists of the Complainant’s registered trademark and the words “access” and “real”. As this requirement under the Policy is essentially a standing requirement, the addition of these terms, even though they are arranged ungrammatically, does not preclude a finding of confusing similarity. See e.g. [WIPO Overview 3.0](#), section 1.8. Apart from anything else, the Complainant’s trademark remains visually and aurally recognisable within the disputed domain name.

As foreshadowed above, the Respondent contends that the Complainant is not the owner of the trademark. The Respondent points out that the manufacturer of the products distributed by the Complainant is a third party, Paiboon Polymedical Co Ltd,<sup>2</sup> and the Complainant is a mere distributor. Accordingly, the Respondent contends that the third party manufacturer, or its owner Dr Paiboon Maraprygsavan, is the owner of the trademark GREEN WEALTH and not the Complainant.

The additional materials submitted by the Complainant in its supplemental filing include a number of statements described as affidavits and apparently signed by Dr Paiboon Maraprygsavan.

In a first affidavit dated April 24, 2023, Dr Paiboon Maraprygsavan states that he is a director of Paiboon Polymedical Co Ltd and confirms that the company has:

“an agreement with Paradise International General Trading LLC to use, sell and register the intellectual property including copyrights, designs and trademarks for the worldwide including the United Arab Emirates.”

In an affidavit dated May 15, 2023, Dr Paiboon Maraprygsavan states that he is the managing director of Greenwealth Healthcare Co. Ltd. He further denies that he signed a statement which Ms Mayeux also signed as “Export Manager” of Greenwealth Healthcare Co. Ltd confirming that Green Wealth Global Co Ltd<sup>3</sup> is an authorised distributor of Dr Paiboon Maraprygsavan’s company.

In a third affidavit dated May 16, 2023, Dr Paiboon Maraprygsavan states that he has entered into a local distribution agreement with Suwenna Mayeux for Thailand but the terms of that agreement explicitly preclude her from selling the products outside Thailand whether directly or from an online site.

On their face, therefore, these documents appear to confer on the Complainant rights to the GREEN WEALTH trademark around the world.

---

<sup>2</sup> The Panel notes that the name of the manufacturer on the example packaging submitted by the Respondent as an annexure to the Response is different to the name on the packaging examples submitted by the Complainant. However, there is also about one year’s difference in the manufacturing dates printed on the packaging. Both parties accept that Dr Paiboon is the inventor or developer of the product in question.

<sup>3</sup> From the *Suwenna Mayeux* case, this appears to be Ms Mayeux’ own company.

In his supplemental filing, the Respondent claims the documents purporting to be affidavits signed by Dr Paiboon Maraprygsavan are forgeries. The Respondent also points to a document apparently executed by Dr Paiboon Maraprygsavan dated September 1, 2020 which confirms that, as the owner of the brand GREEN WEALTH NEO HAIR LOTION, he has appointed the Complainant as the sole distributor of Green Wealth products in India. Thirdly, the Respondent denies that the email offering to transfer the disputed domain name to the Complainant for GBP 25,000 was sent by him. He contends that the email address it was sent from is not an email address he uses or is associated with.

Often, if not typically, the manufacturer will be the owner of a trademark rather than a mere distributor. That is not invariably the case, however, and, of course, the parties involved may make different arrangements.

In the present case, while the Respondent asserts that the documents supplied by the Complainant are forgeries, the Respondent does not provide any reasoned basis to support that allegation and merely suggests that the Center contact Dr Paiboon Maraprygsavan for confirmation of the Respondent's claims. However, it was for the Respondent to submit the necessary evidence and it is not the role of the Center nor of the Panel to embark on such investigations. That is all the more so in circumstances where the Respondent has provided a copy of the document in September 2020 in which the Complainant was granted distribution rights as the sole distributor in India.

That said, the Panel notes that there are some differences between the signatures on the various documents.

However, that may be, the materials before the Panel do not permit a conclusion to be reached about the Respondent's allegation that the documents are forgeries, especially having regard to the seriousness of such an allegation.

On the assumption that the affidavits submitted by the Complainant are not forgeries, it appears that the September 2020 document relied on by the Respondent has been superseded.

Ultimately and in any event, the evidence shows that the Complainant is registered as the owner of the trademark GREEN WEALTH in many countries and, in addition, the GREEN WEALTH and device trademark in some of those countries as well as a number of other countries.

Generally, if not almost invariably, the question of ownership of a registered trademark is a matter for the relevant authorities in the jurisdiction where the trademark is registered. It would likely be a very rare case, if at all, where a Panel would go behind the fact of the registration to deny a complainant's ownership of the registered trademark and would certainly require much clearer and far more compelling evidence than is before the Panel in this case.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

### **C. Rights or Legitimate Interests**

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

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. These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a 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.

The Respondent registered the disputed domain name after the Complainant began using its trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with the Complainant.

The disputed domain name is not derived from the Respondent’s name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. From the available record, the Respondent does not appear to hold any registered trademarks for the disputed domain name, noting that the Respondent does have a registration in the United Kingdom for NEO HAIR LOTION which, of course, is not a name from which the disputed domain name can be derived.

These factors go a long way to establishing the required *prima facie* case.

In the Response, the Respondent does claim that he is an authorised distributor of the GREEN WEALTH products. The Response does not identify who appointed the Respondent as an authorised distributor or what territory the appointment relates to. Given the context, the Panel infers that the Respondent does not claim the authorization was granted by the Complainant.

In contrast to the position before the panelist in the *Suwenna Mayeux* case, *supra*, the Respondent does not provide any documentation or other supporting material to support his claim. The Panel of course has no knowledge about whether or not the Respondent is in fact authorised by someone to distribute GREEN WEALTH products. As the Respondent was in a position to submit documentation going to the licensing of the Complainant for India, however, the Panel would have expected the Respondent to have submitted documentation corroborating his claim to be an authorised distributor too. In the absence of such documentation, the Panel is unable to accept the Respondent’s claim.

Noting that the Respondent is based in the United Kingdom, section 12 of the Trade Marks Act 1994 (UK) provides:

“12 Exhaustion of rights conferred by registered trade mark.

(1) A registered trade mark is not infringed by the use of the trade mark in relation to goods which have been put on the market in the United Kingdom or the European Economic Area under that trade mark by the proprietor or with his consent.

(2) Subsection (1) does not apply where there exist legitimate reasons for the proprietor to oppose further dealings in the goods (in particular, where the condition of the goods has been changed or impaired after they have been put on the market).”

Article 15 of the European Union Trademark Regulation, Regulation (EU) 2017/1001, makes corresponding provision in respect of goods put on the market in the European Economic Area by or with the consent of the trademark owner.

As already noted, the Respondent claims to be authorised to distribute the GREEN WEALTH products and not that he is engaged in some form of legitimate parallel importing or reselling products put on the market by or with the consent of the Complainant. In any event, the Respondent does not provide any evidence

which would support a claim to rely on these defences. Neither the Response nor the Respondent's supplemental filing identify where the Respondent obtained whatever goods he is selling or from whom.

In addition, while the Respondent contends that the Complainant has not provided any evidence the Respondent's products are counterfeit, the Complaint does include a comparison of the Complainant's packaging identifying a number of printing differences or errors which the Complainant contends indicate the packaging and the enclosed products are not from a legitimate source. The Complainant's allegations in this respect include unauthorised use of the "Paradise 1989" device. The manufacturing dates printed on the packaging included in the comparison are only one or two months apart.

Apart from the bald denial, the Respondent has not addressed the Complainant's contentions. The apparent discrepancies, therefore, are unexplained and lend some credence to the Complainant's allegations.

Use of a domain name which is confusingly similar to another person's trademark in connection with the sale of goods in breach of that other person's trademark rights does not constitute a good faith offering of goods or services under the Policy. See e.g. [WIPO Overview 3.0](#), section 2.13.1

In these circumstances, the Panel finds that the Respondent has not rebutted the *prima facie* case established by the Complainant that the Respondent does not have rights or legitimate interests in the disputed domain name. To some extent that conclusion is reinforced by the fact that the website to which the disputed domain name resolved before the Complaint was filed appears to have been taken offline.

Based on the available record, therefore, the Panel finds the second element of the Policy has been established.

#### **D. Registered and Used in Bad Faith**

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g. *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd*, WIPO Case No. [D2010-0470](#).

This is not a case where the Respondent claims to have been unaware that GREEN WEALTH is a trademark for the relevant products. On the contrary, the Respondent has claimed that he is authorised to engage in the conduct.

The reasons for the Panel's finding that the Respondent does not have rights or legitimate interests in the disputed domain name also lead to findings that the disputed domain name has been registered and used in bad faith. Contrary to the Respondent's submissions, the registration and use of the disputed domain name which is confusingly similar to the Complainant's trademark is calculated to divert traffic to the Respondent's website by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site and products.

Accordingly, the Complainant has established all three requirements under the Policy.

#### **6. 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 <greenwealthaccessreal.com> be transferred to the Complainant.

*/Warwick A. Rothnie/*

**Warwick A. Rothnie**

Sole Panelist

Date: December 13, 2023