

## ADMINISTRATIVE PANEL DECISION

### Green Tree Finances Limited v. Name Redacted

### Case No. D2023-4480

#### 1. The Parties

The Complainant is Green Tree Finances Limited, United Kingdom (“UK”), represented by Damien O’Brien, UK.

The Respondent is Name Redacted<sup>1</sup>, Nigeria.

#### 2. The Domain Name and Registrar

The disputed domain name <greentreefinancesltd.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 October 27, 2023. On October 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 30, 2023, the Registrar transmitted by email to the Center its verification response 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 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 10, 2023, and a second amended Complaint on November 15, 2023, in response to the Center’s further request to amend the Complaint on November 15, 2023.

The Center verified that the Complaint together with the amended Complaints 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”).

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 12, 2023. The Complainant sent an email to the Center on November 21, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on December 21, 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 to ensure compliance with the Rules, paragraph 7.

On January 4, 2024, the Panel issued the Procedural Order No.1 (the "Order") requesting the Complainant to document its claimed unregistered/common law rights. On January 10, 2024, the Complainant filed its response. The Respondent did not reply to the Order.

#### **4. Factual Background**

The Complainant is a private limited company registered in England and Wales. The Complainant registered Green Tree Finances Limited as its company name in 2014 and has continuously used it in connection for its service of holding externally listed debt for the purposes of financing property developments within the UK for the past 10 years, resulting in substantial goodwill and reputation in their company name. Among the Complainant's reported transactions provided in reply to the Order, which included audited accounts from 2014 until 2022, resulted in a property development with a reinstatement insurance value of GBP 10,000,000.

The Domain Name was registered on February 3, 2021. The Domain Name has resolved to a webpage impersonating the Complainant. At the time of drafting the Decision the Domain Name resolved to a blank page.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that because of the extensive use the Complaint has made of its company name in the UK, the Complainant has substantial goodwill and reputation in the UK, and accordingly unregistered/common law rights. In reply to the Order, the Complainant also pointed to the Respondent's impersonation of the Complainant and the actual Internet user confusion resulting therefrom as illustrative of the Complainant's reputation and goodwill in the company name. The Domain Name is identical/confusingly similar to the said name as it wholly incorporates the Complainant's "Green Tree Finances Ltd" with no additional elements.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not affiliated to the Complainant nor authorized in any way to use the Complainant's mark. The Domain Name has resolved to a webpage that unlawfully impersonates the Complainant but presents false contact details.

The Complainant argues that the Respondent had knowledge of the Complainant when the Respondent registered the Domain Name. The Respondent's webpage has fraudulently purported to be hosted by the Complainant. The webpage included false contact details in the form of the Complainant's contact details, but with a contact telephone registered in Nigeria. This use is a clear attempt by the Respondent to target and fraudulently mislead members of the public for commercial gain by pretending to represent the Complainant. In its email of November 21, 2023, the Complainant stated that the Respondent also registered the Domain Name using information belonging to the Complainant, which reinforces the general fraudulent intent of the Respondent and thus, bad faith registration and use.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has established unregistered rights in GREEN TREE FINANCES LIMITED for purposes of the Policy. While the Complainant's evidence in reply to the Order sufficiently demonstrates the Complainant's continuous use and investment therein, the Respondent's impersonation of the Complainant is also demonstrative of the source-identifying function that the Complainant's unregistered trademark has attained. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), sections 1.3 and 1.7.

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. The Complainant's trademark is recognizable and within the Domain Name, if not identical. 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 *prima facie* 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. Rather, the Respondent's use of the Domain Name is evidence of bad faith and cannot confer rights or legitimate interests upon the Respondent.

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.

Based on the use the Domain Name, it is certain that the Respondent had knowledge of the Complainant and its trademark when the Respondent registered the Domain Name. This is further confirmed by the composition of the Domain Name. Moreover, the Domain Name has been used in bad faith for a webpage to impersonate the Complainant in what appears to be a fraudulent phishing attempt. The current non-use of the Domain Name does not prevent a finding of bad faith under the passive holding doctrine, particularly given the fraudulent impersonation of the Complainant via both the Domain Name registration details and prior use. See section 3.3 of the [WIPO Overview 3.0](#).

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 <greentreefinancesltd.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: January 20, 2024