

## **ADMINISTRATIVE PANEL DECISION**

Hong Kong Sun Rise Trading Limited v. Xu Xiuyan  
Case No. D2024-0483

### **1. The Parties**

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

The Respondent is Xu Xiuyan, China.

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

The disputed domain name <cheapgreenworks.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 February 1, 2024. On February 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 1, 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 (Redacted for Privacy, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 February 8, 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 February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 7, 2024.

The Center appointed C. K. Kwong as the sole panelist in this matter on March 19, 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 the registered owner of trademarks consisting of or embodying the expression “Green Works” in two words or “Greenworks” in one word. As claimed in the Amended Complaint and referred to in Annex 4 of the Amended Complaint, these registrations include:

Jurisdiction	Registration No.	International Classification of goods/services
Canada	Registration No. TMA1092231 for the word GREENWORKS, registered on January 22, 2021	7, 9, 11, 12, 17, 21, and 35
United States	90978070 (Registration No. 6890998) for the words “GREEN WORKS”	9 and 11

The Complainant specializes in the wholesale distribution of industrial machinery and equipment. It operates an official website at “[www.greenworkstools.eu](http://www.greenworkstools.eu)” [Annex 6 to the Amended Complaint]. The disputed domain name was registered on October 21, 2022, and, at the time of filing of the Complaint, resolved to a website featuring the Complainant’s mark and logo, and at which garden tools including lawn mowers and chainsaws were offered for sale.

Other than the particulars shown in the printout of the database searches conducted by the Complainant on the WhoIs Database (Annex 1 to the Amended Complaint), and the website to which the disputed domain name resolves (Annex 3 to the Amended Complaint), there is no evidence concerning the background, businesses or activities of the Respondent.

#### 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 for the following reasons:

The disputed domain name incorporates entirely the Complainant’s registered trademark GREEN WORKS. The addition of the generic term “cheap” is not sufficient to prevent the confusing similarity. On the contrary, it suggests the sale of the Complainant’s products at discounted prices and adds to the customer confusion. The Top-Level Domain name “.com” is disregarded for the similarity test.

The Complainant has not licensed or authorized the Respondent to use its trademarks. The Respondent is not affiliated to the Complainant.

There is no evidence that the Respondent is commonly known by the disputed domain name or owns any registered trademarks embodying the term “cheapgreenworks.com”.

The website to which the disputed domain name resolves mimics the look and feel of the Complainant’s official website, offering the sale of products identical to those offered by the Complainant. The Respondent has registered and is using the disputed domain name in bad faith, with the clear intent to take a free ride on the Complainant’s reputation.

The Complainant alleged that the disputed domain name is being utilized as a platform for scams and fraudulent activities. It was further alleged that the registration of the Complainant's trademarks predates the registration of the disputed domain name.

A simple online search on the term "Green Works" would have inevitably learnt about the Complainant, its trademark and business. The Respondent registered the disputed domain name using the trademark GREEN WORKS intentionally in order to take advantage of the reputation of the Complainant's trademark and goodwill, free-riding on the Complainant's reputation.

As there is no disclaimer of affiliation with the Complainant, the website to which the disputed domain name resolves may mislead potential customers by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation and making the general public believe that the products advertised on that website are actually officially authorized by the Complainant. Several customers have encountered difficulty regarding this website as they never received their products they purchased there.

## **B. Respondent**

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

## **6. Discussion and Findings**

Having considered the records in the case file, the Panel is satisfied that the Center has discharged its responsibility under paragraph 2(a) of the Rules to employ reasonably available means calculated to achieve actual notice to the Respondent of the Complaint.

In this connection, it is noted that on February 13, 2024, the Center forwarded the Notification of Complaint and Commencement of Administrative Proceedings according to the contact details of the Respondent, including those found in the Amended Complaint, WhoIs, and Registrar Verification. The said notification was sent by email, courier, and facsimile as per the contact particulars provided in such contact details, with copies to the Registrar.

### **The Three Elements**

In rendering its decision, the Panel must adjudicate the dispute in accordance with paragraph 15(a) of the Rules which provides that, "[t]he Panel shall decide a 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". Paragraph 14(b) of the Rules further provides that, "if a Party, in the absence of exceptional circumstances, does not comply with any provisions of, or requirement under these Rules or any requests from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate".

The said three elements are considered below.

### **1. Identical or Confusingly Similar**

(a) 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.

(b) The Complainant has shown rights in respect of the trademark GREENWORKS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

(c) The entirety of the mark GREENWORKS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.7. The additions of the word “cheap” does not prevent the similarity of the disputed domain name and the Complainant’s GREENWORKS trademark.

The Panel finds the first element of the Policy has been established.

## **2. 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.

There is no legitimate explanation on the record as to why it was necessary for the Respondent to adopt the word “greenworks” in its domain name.

The Complainant has also confirmed that it has not licensed or authorized the Respondent to use its trademark GREENWORKS in any way.

Adding the indistinctive word “cheap” as a prefix in front of the Complainant’s GREENWORKS trademark in the disputed domain name, cannot constitute fair use as it suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Moreover, the use of the disputed domain name for a copycat webstore, without disclaimer as to its lack of relationship with the Complainant, reinforces the impersonating nature of the disputed domain name and cannot vest in the Respondent rights or legitimate interests per [WIPO Overview 3.0](#), sections 2.8 and 2.13.

Having reviewed the available records, 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 finds the second element of the Policy has been established.

## **3. 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.

The Panel finds the Respondent is passing itself off as the Complainant. The contents of the website to which the disputed domain name resolved show that the Respondent is marketing at a discount, lawn mowers and chainsaws bearing or by reference to the mark GREENWORKS, being exactly the Complainant’s mark and principle line of goods. This disrupts the business of the Complainant.

The incorporation of the GREENWORKS trademark entirely as part of the disputed domain name without any explanation and without any disclaimer of association with the Complainant in the Respondent's website, together with its similar look and feel can attract, for commercial gain, Internet users to that website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of that website for the products being offered on that website.

The Panel finds that the circumstances under paragraphs 4(b)(iii) and (iv) of the Policy have been established.

The Panel finds that the Complainant has 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 name <cheapgreenworks.com> be transferred to the Complainant.

*/C. K. Kwong/*

**C. K. Kwong**

Sole Panelist

Date: April 2, 2024