

ADMINISTRATIVE PANEL DECISION

Hong Kong Sun Rise Trading Limited v. RMcPherson Lizabeth, Tao Hou
Case No. D2024-1413

1. The Parties

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

The Respondents are RMcPherson Lizabeth, United States of America ("United States"), and Tao Hou, China.

2. The Domain Names and Registrars

The disputed domain name <greenworkssale.com> is registered with Name.com, Inc.

The disputed domain name <greenworkssell.com> is registered with Gname.com Pte. Ltd.

Name.com, Inc. and Gname.com Pte. Ltd. are hereinafter collectively referred to as the "Registrars".

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 3, 2024. On April 3, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On April 4, 2024, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) for the disputed domain name <greenworkssell.com> and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 5, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on April 15, 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 Respondents of the Complaint, and the proceedings commenced on April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on May 13, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on May 17, 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 a corporation headquartered in Hong Kong, China. It is specialized in the wholesale distribution of industrial machinery and equipment.

The Complainant holds numerous trademark registrations around the world for the term “GREENWORKS”, including, as per Annex 4 to the Complaint, the following:

United States (“US”) trademark no. 77749816 GREENWORKS (word), registered on September 21, 2010, for goods in Class 7;

Hong Kong, China trademark no. 304420467 GREENWORKS (word), registered on May 21, 2019, for goods and services in Classes 7, 9, 35;

European Union (“EU”) trademark no. 017163817 GREENWORKS (word), registered on November 26, 2020, for goods and services in Classes 7, 9, 11, 12, 17, 21 and 35;

US trademark no. 90283473 for GREENWORKS PRO (word), registered on December 19, 2023, for goods and services in Classes 7 and 9.

The Complainant operates its official website under the domain name <greenworkstools.eu>.

The disputed domain name <greenworkssell.com> was registered on December 23, 2023, and the disputed domain name <greenworkssale.com> on September 16, 2022. Both disputed domain names resolved, prior to the start of these proceedings, to respective websites displaying the trademark and logo GREENWORKS, and GREENWORKS PRO, respectively, with different images of tools as well as a contact page, see Annex 5.

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 names.

Notably, the Complainant contends that it owns rights in the term GREENWORKS that predate the creation of the respective disputed domain name. Both disputed domain names, according to the Complainant, include the trademark GREENWORKS in its entirety. It is clearly recognizable within the respective disputed domain name, the generic additions “sell” and “sale”, respectively, not sufficient to prevent the confusing

similarity. The generic top-level domain (“gTLD”) has to be disregarded as a standard registration requirement.

Further, the Complainant states that it has not licensed or authorized either Respondent to use its trademark. Neither Respondent is affiliated to the Complainant, nor has the Complainant authorized the Respondents to register or use the disputed domain names, nor has the Complainant endorsed or sponsored the Respondents’ websites. The Complainant claims that the Respondents are not commonly known by any of the disputed domain names. Furthermore, the disputed domain names resolve to copycat versions, as substantiated by Annex 3 in comparison to Annex 5 of the Complaint, of the Complainant’s website. This shows an engagement in illegitimate sales or scam activities which cannot confer any legitimate rights to use the disputed domain names.

Finally, the Complainant claims that the disputed domain names have been registered and are being used in bad faith. The Complainant’s trademarks predate the creation of them. By conducting a simple online search, as presented in Annex 6, the Respondents would have inevitably learned about the Complainant and its trademark and business. So it is very likely that the Respondents registered the disputed domain names intentionally in order to exploit the reputation and goodwill of the trademark, which is all the more evident as the websites to which the disputed domain names resolve are, according to the Complainant, copycat versions of the Complainant’s website. This use shows the clear intent to free ride on the Complainant’s renown.

B. Respondents

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2.

The Panel notes that the Center, upon registrant information obtained from the Registrars of both disputed domain names, sent an email to the Complainant dated April 5, 2024, in the following terms, inter alia:

“Please note that pursuant to Rules paragraph 3(c) “[t]he complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.” Accordingly, you are requested to:

(i) amend the Complaint adding the Registrar-disclosed registrants as formal Respondents and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all domain names are under common control; and/or

(ii) file a separate complaint for any domain name(s) for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that all domain names are under common control and

indicate (by short amendment or reply email) which domain name(s) will no longer be included in the current Complaint.

Please submit any amendment to the Complaint by April 10, 2024. You may also wish to consider including further facts or arguments in light of the new registrant information (e.g., as to the Respondent's rights or legitimate interests or bad faith). See [WIPO Overview 3.0](#), section 4.11. "

Upon reminder of the Center, the Complainant in response sent an amended Complaint on April 15, 2024, stating, on the issue of consolidation, the following:

"In the present case, the Complainant believes that the disputed domain names are under the common control of the same person or entity. This belief stems from the fact that both Disputed Domain Names utilize the Complainant's trademark in the same manner.

Moreover, both domains exhibit similarities, suggesting a concerted effort to replicate and exploit the look and feel of the Complainant's websites. They both comprise of the Complainant's trademark and generic names "sale" and "sell". These terms are similar both visually, phonetically, and conceptually.

The registrant data for greenworkssell.com is likely fake, using a random name and address to hide the real identity of the registrant. The given address is not connected to any commercial activity but to a family house in Mississippi. The name Lizbeth Macpherson is used by several individuals who were mentioned in news articles or on different websites.

Given the above, the correspondence of the facts regarding the disputed domain names show that they are under the common control of the same person or entity. "

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

Given the above criteria and the available record, the Panel finds that the Complainant's belief as voiced above does not amount to sufficient evidence for common control to allow for consolidation.

It is usual for – assumed – bad faith registrants to exploit the look and feel of a trademark owner's website. Also unrelated registrants accidentally targeting the same trademark owner are likely to use the trademark in its entirety together with a generic addition in a disputed domain name. The fact that the address of the registrant for the disputed domain name <greenworkssell.com> corresponds to a real address in Mississippi, US is no evidence for it being fake. Rather, fake addresses are characterized by postal codes, city names and/or street names, country codes and telephone numbers which evidently cannot exist, at least in the given combination.

Comparing the above considerations with the available record, there appear to be more differences between the registration data of both disputed domain names than similarities: the disputed domain names have been registered more than a year apart from each other. They were registered using different Registrars. One of the Respondents is domiciled in the US, the other in China, with no obvious parallels in the given names or addresses. The email addresses to be found in the respective registrant contact information are

different and are not linked to the same domain name. The technical details relating to the disputed domain names are different. The nameservers connected to the disputed domain names, even though both on cloudflare.com, which then again is one of the most widely used nameservers, are different (coraline/greg.ns.cloudflare.com and koa/noor.ns.cloudflare.com, respectively).

The Panel interprets the Rules, in the light of the body of jurisprudence in this matter, as precluding the consolidation of the Respondents in this case and will therefore proceed to hear the Complaint against the cited first Respondent Elizabeth McPherson in respect of the disputed domain name <greenworkssell.com>. This is without prejudice to the right of the Complainant to seek to refile a Complaint for the remaining disputed domain name <greenworkssale.com> (*Minnetonka Moccasin Company, Inc. v. wei liang, wangli, xiahong, baohan, lipai, li hong, xuwei, hu yurui, hu mo, fang wei, hu haonan, liu ruyun, ma ling, wenfang, tangling, jiang yilan, ma qing, yang shuoqing, lisai, chenyang, chenliang, bailianhua*, WIPO Case No. D2012-0821).

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 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 entirety of the mark 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.

Although the addition of other terms, here, "sell", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent has registered the disputed domain name after the priority dates of numerous trademarks of the Complainant in the term GREENWORKS. It resolves to a website that imitates the look and feel of the Complainant's website and makes use of logos of the Complainant visible on its official website.

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.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 <greenworkssell.com> be transferred to the Complainant.

For the reasons stated above, the Complaint is denied in respect of the disputed domain name <greenworkssale.com>, without prejudice to the right of the Complainant to seek to refile it.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: May 31, 2024