

ADMINISTRATIVE PANEL DECISION

Hong Kong Sun Rise Trading Limited v. Tao Hou
Case No. D2024-2407

1. The Parties

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

The Respondent is Tao Hou, China.

2. The Domain Name and Registrar

The disputed domain name <greenworkssale.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 June 10, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on June 17, 2024, providing the additional registrant and contact information disclosed by the Registrar.

The Center verified that the 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 June 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 15, 2024.

The Center appointed Jacob Changjie Chen as the sole panelist in this matter on July 18, 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, headquartered in Hong Kong, China, specializes in the wholesale distribution of industrial machinery and equipment.

The Complainant holds numerous registrations of GREENWORKS trademark, including No. 919541160 Brazil trademark, registered on December 8, 2020; No. TMA1092231 Canadian trademark, registered on January 22, 2021; No. 920357270 Brazil trademark, registered on June 22, 2021; No. 6615681 the United States of America trademark, registered on January 11, 2022.

The Complainant also owns the domain name <greenworkstools.eu>, incorporating its GREENWORKS trademark, registered on June 12, 2014, and has been used as its official website.

According to the information disclosed by the Registrar, the Respondent is Tao Hou, located in China.

The disputed domain name <greenworkssale.com> was registered on September 16, 2022. The disputed domain name currently resolves to an invalid website, but according to the evidence provided by the Complainant, the disputed domain name previously resolved to a website displaying the Complainant's GREENWORKS trademark and purportedly offering products relating to the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its GREENWORKS trademark. The disputed domain name entirely incorporates the Complainant's GREENWORKS trademark with the addition of a term "sale" and the generic Top-Level Domain ("gTLD") ".com". The Complainant's trademark is recognizable in the disputed domain name, and the additional term "sale" and the gTLD ".com" do not prevent the finding of confusing similarity between the disputed domain name and the Complainant's trademark. Thus, the disputed domain name is confusingly similar to the Complainant's GREENWORKS trademark.

The Complainant further alleges that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent has never been authorized by the Complainant to use any of its trademarks in any manner. The Respondent is not commonly known by the disputed domain name. The disputed domain name resolves to copycat version of the Complainant's official website, which cannot be deemed as using the disputed domain name in connection with making a bona fide offering of goods or services.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The Complainant's GREENWORKS trademark was registered predating the disputed domain name. By conducting a simple online search regarding the term "green works", the Respondent would have inevitably learnt about the Complainant, its trademark and business. The Respondent registered the disputed domain name using the trademark GREENWORKS intentionally in order to take advantage of the reputation of the trademark and the Complainant's goodwill, free-riding on the Complainant's reputation. Moreover, the disputed domain name resolves to a copycat website of the Complainant's official website, which further proves that the Respondent is currently using the disputed domain name in bad faith, with the clear intention to take a free ride on the Complainant's renown.

B. Respondent

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

6. Discussion and Findings

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 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 term "sale" 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 name 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 name such as those enumerated in the Policy or otherwise.

According to the Complainant's evidence, the disputed domain name resolved to a website displaying the Complainant's GREENWORKS trademark prominently, without a clear disclaimer about the lack of relationship with the Complainant, and purportedly offering products related to the Complainant, which couple with the composition of the disputed domain name creates the impression of a website associated with the Complainant. Such use of the disputed domain name cannot be deemed as a bona fide offering of goods or services, nor a legitimate noncommercial or fair use. The disputed domain name currently resolves to an invalid website, which means that after the rising of this dispute, the Respondent chose to stop resolving the disputed domain name instead of submitting a response. Such behavior further supports the

conclusion of a lack of rights or legitimate interests. In addition, the Complainant and its GREENWORKS trademark have built up a close connection and gained a certain degree of reputation and recognition among relevant consumers. Without any evidence from the Respondent, there is no element from which the Panel could infer the Respondent's rights or legitimate interests in the disputed domain name.

In addition, the nature of the disputed domain name, comprising the GREENWORKS trademark and the additional term "sale", is inherently misleading, and carries a risk of implied affiliation. Such composition of the disputed domain name does not support a finding of any rights or legitimate interests on the Respondent.

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 registration date of the Complainant's GREENWORKS trademark predates the registration date of the disputed domain name. Moreover, given the close connection between the Complainant and its GREENWORKS trademark, noting the composition of the disputed domain name and its use, the Respondent should have been aware of the Complainant and its GREENWORKS trademark when registering the disputed domain name. According to the past website content associated with the disputed domain name, the Respondent has actual knowledge of the Complainant and its GREENWORKS trademark.

The Respondent resolved the disputed domain name to a website displaying the Complainant's GREENWORKS trademark and purportedly offering products related to the Complainant. Such behavior indicates that the Respondent has the intention to cause confusion among Internet users, implying a relationship with the Complainant and the GREENWORKS trademark and gain commercial benefits therefrom. Thus, the Panel holds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating likelihood of confusion with the Complainant and the GREENWORKS trademark as to the source, sponsorship, affiliation, or endorsement of his website or location or products and services.

The Respondent currently passively holds the disputed domain name. 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain name, and the Respondent's failure to submit any response, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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 <greenworkssale.com> be transferred to the Complainant.

/Jacob Changjie Chen/

Jacob Changjie Chen

Sole Panelist

Date: August 1, 2024