

ADMINISTRATIVE PANEL DECISION

Hong Kong Sun Rise Trading Limited v. mike simon
Case No. D2024-2725

1. The Parties

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

The Respondent is mike simon, United Kingdom.

2. The Domain Names and Registrar[s]

The disputed domain names <greenworksdepotshop.shop> and <greenworkspower.shop> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2024. On July 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 4, 2024, the Registrar 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 15, 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 July 16, 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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2024.

The Center appointed Martin Schwimmer as the sole panelist in this matter on September 6, 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, Hongkong Sun Rise Trading Limited, is a corporation headquartered in Hong Kong, China, specializing in the wholesale distribution of industrial machinery and equipment.

The Complainant holds trademark registrations for the term GREENWORKS, as set forth below:

United States of America Registration No. 6890998 for the mark GREENWORKS (stylized), registered on November 1, 2022, in classes 9 and 11; and

United States of America Registration No. 6890996 for the word mark GREENWORKS registered on November 1, 2022, in classes 9 and 11.

The Complainant operates a website at the domain name <greenworkstools.com>.

The disputed domain names <greenworkspower.shop> and <greenworksdepotshop.shop> were registered respectively by the Respondent on April 16, 2024 and April 12, 2024. At the time the Complaint was filed, the disputed domain names resolved to websites displaying the Complainant's GREENWORKS trademark and offering products identical or related to those of the Complainant, at discounted prices. The Respondent is reportedly an individual from the United Kingdom.

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 the disputed domain names are confusingly similar to its registered trademark GREENWORKS. The disputed domain names fully incorporate the GREENWORKS trademark, with additional words "power", "depot", "shop" and the generic Top-Level Domain suffix ".shop", all of which are descriptive for the Complainant's business field. The Complainant argues that these slight variations do not distinguish the disputed domain name from the trademark.

The Complainant argues that the Respondent has no rights to the disputed domain names. The Respondent utilizes the disputed domain names in connection with websites (the "Websites") which mimic the Complainant's official website to exploit its trademark for unauthorized commercial gain, creating confusion and harming the Complainant's reputation.

The Complainant asserts that the disputed domain names were registered and are being used in bad faith. The Respondent did not have authorization to use the GREENWORKS trademark, which predates the registration of the disputed domain names. The use of GREENWORKS trademark in the disputed domain names likely aim to exploit the Complainant's established reputation. Additionally, the Complainant is aware of consumers asserting that the Respondent is not fulfilling orders made on the Websites, suggesting a possible fraudulent scheme.

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 Panel finds the mark is recognizable within the disputed domain names. The additional words "power", "depot", "shop", and the gTLD suffix ".shop" do not distinguish the disputed domain names from the Complainant's trademark. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7

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 names. 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.

The Complainant alleges that the Respondent uses the disputed domain names to offer goods identical or similar to those offered by the Complainant. Further, the Complainant is aware of allegations by consumers that the Respondent is not fulfilling orders, suggesting that the Respondent is committing fraud.

Panels have held that the use of a domain name for illegal activity – here, either the sale of counterfeit goods, or purporting to offer goods in the furtherance of a fraudulent scheme, 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 utilized the disputed domain names in connection with websites that offered goods identical to or similar to those offered by the Complainant. The Websites contain multiple grammatical errors, and several links and functions are not operational. The address on the Websites is located in “San Antonio, Pennsylvania, 81060.” The Panel notes that it cannot identify a San Antonio in Pennsylvania, and notes that 81060 is not an active zip code in the United States of America.

As an additional point, the Respondent utilized the address “221 B Baker Street”, as part of his Whois contact data. Mystery fans will immediately recognize the address as that of the fictional detective, Sherlock Holmes. The Panel may make negative inferences arising from a respondent’s use of fraudulent Whois data.

Panels have held that the use of a domain name for illegal activity – here, sale of counterfeit goods or other types of fraud, 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 names <greenworksdepotshop.shop and greenworkspower.shop> be transferred to the Complainant.

/Martin Schwimmer/

Martin Schwimmer

Sole Panelist

Date: September 20, 2024