

## **ADMINISTRATIVE PANEL DECISION**

Hong Kong Sun Rise Trading Limited v. Anna Hyde, Charlie Iqbal, Holly Murray

Case No. D2024-0752

### **1. The Parties**

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

Respondent is Anna Hyde, Charlie Iqbal, Holly Murray, Germany.

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

The disputed domain names <greenworksireland.com>, <greenworksmexico.net> and <greenworks.nz> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 19, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 20, 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 Complainant on February 22, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting 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. Complainant filed an amended Complaint on February 23, 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 Respondent of the Complaint, and the proceedings commenced on February 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 19, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 20, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on March 22, 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 following facts appear from the Complaint (as amended) and its Annexes, which have not been contested by Respondent.

Complainant is a corporation headquartered in Hong Kong, China, which specializes in the wholesale distribution of industrial machinery and equipment, including lawn and garden tools under the trademark "GREENWORKS" (the "GREENWORKS Mark").

Complainant holds registrations for the GREENWORKS Mark in countries around the world for its wholesale distribution services, including Australian Trademark Registration No. 1867996, GREENWORKS, registered November 7, 2018, for a range of goods and services in International Classes 7, 9, 11, 12, 17, 21 and 35; Canadian Trademark Registration No. TMA848508, GREENWORKS, registered April 15, 2013, for a range of goods in International Classes 7 and 8; United States of America Trademark Registration No. 3851110, registered September 21, 2010, for goods in International Class 7; and European Union Trademark Registration No. 017163817, registered November 26, 2020, for a range of goods and services in International Classes 7, 9, 11, 12, 17, 21 and 35.

The GREENWORKS Mark also remains the distinctive element of Complainant's official domain name, <greenworkstools.eu>, used to access the official GREENWORKS website ("Official GREENWORKS Website"), as well as other domain names incorporating the GREENWORKS Mark.

All three disputed domain names were registered with the same Registrar on the same date, December 13, 2023, use the same name servers and the same registrant country, and each resolves to a copycat website, mimicking the look and feel of the Complainant's Official GREENWORKS Website displaying not only the GREENWORKS Mark and logo, but also text, product pictures and layout strikingly similar to the digital content of Complainant's Official GREENWORKS Website purportedly to offer Complainant's GREENWORKS lawn care products at discount prices without any accurate or prominent disclaimer.

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

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

Complainant contends that the disputed domain names are identical or confusingly similar to Complainant's trademark; that Respondent has no rights or legitimate interests in respect of each disputed domain name; and that each disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

### 6.1 Procedural Issue

#### **Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. 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 holder registrants did not comment on Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing 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.

As regards common control, the Panel notes that all three disputed domain names are registered with the same registrar on the same day, using the same name servers and the same registrant country, each resolves to a copycat website that is essentially identical to the others, with the same colors, theme and layout, which Complainant contends suggests a concerted effort to replicate and exploit the look and feel of Complainant's websites.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides it is appropriate to consolidate in a single proceeding the disputes regarding the nominally different disputed domain name registrants (referred to below as "Respondent").

### 6.2 Substantive Issues

Paragraph 15(a) of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the "balance of the probabilities" or "preponderance of the evidence" standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. [WIPO Overview 3.0](#), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of the probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

### **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 Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The trademark registration evidence has been submitted in the form of electronic copies of valid and subsisting national and international trademark registration documents in the name of Complainant referenced in section 4 above. Ownership of a nationally registered trademark constitutes prima facie evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1; see *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#); see also *Janus International Holding Co. v. Scott Rademacher*, WIPO Case No. [D2002-0201](#).

The [WIPO Overview 3.0](#), section 1.8 provides: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

While the addition of the geographical terms here, "ireland", "mexico", and "nz", the generally accepted abbreviation for New Zealand, may bear on assessment of the second and third elements, the Panel finds the addition of such terms within each respective disputed domain name does not prevent a finding of confusing similarity between the disputed domain names and Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. See *Advance Magazine Publishers Inc. v. Arena International Inc.*, WIPO Case No. [D2011-0203](#).

Prior UDRP panels have also found the Top-Level Domains, such as ".com" and ".net", being viewed as a standard registration requirement, may typically be disregarded under the first element analysis. See [WIPO Overview 3.0](#), section 1.11.1; see also *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#); *L'Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#).

The Panel finds Complainant's GREENWORKS Mark is recognizable within each of the disputed domain names. Accordingly, all three of the disputed domain names are confusingly similar to the GREENWORKS Mark for the purposes of the Policy.

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. [WIPO Overview 3.0](#), section 2.1. See also *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in each of the disputed domain names. Complainant contends that none of the circumstances provided in paragraph 4(c) of the Policy for demonstrating a respondent's rights to and legitimate interests in a domain name are present in this case. Respondent has not rebutted 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.

First, Complainant asserts that it has no commercial relationship with Respondent, who is not sponsored by or affiliated with Complainant in any way, nor has Complainant given Respondent authority or license to register or use Complainant's trademarks in any manner, including in domain names. Prior UDRP panels have held "in the absence of any license or permission from Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed". *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#).

Second, Complainant contends no Respondent is commonly known by any of the disputed domain names, which evinces a lack of rights or legitimate interests under Policy paragraph 4(c)(ii). The Registrar's registrant data submitted to the Center for each of the corresponding disputed domain names, identified "Anna Hyde" as registrant/registrant organization for <greenworksireland.com>; "Charlie Iqbal" as registrant/registrant organization for <greenworksmexico.net>; and "Holly Murray" as registrant/registrant organization for <greenworksny.net>. None of these registrants listed above as a Respondent could be considered to be commonly known by their respective disputed domain name because each clearly bears no resemblance to it, nor to the GREENWORKS Mark, nor to Complainant's official <greenworkstools.eu> domain name. Prior UDRP panels have held where no evidence, including the Whois record for the disputed domain name, suggests that Respondent is commonly known by the disputed domain name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name within the meaning of Policy paragraph 4(c)(ii). See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#).

Most importantly, Complainant contends Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services because, as Complainant's Annex evidence shows of the web page connected to each respective disputed domain name resolves to a carefully crafted "copycat" version of Complainant's Official GREENWORKS Website to create a false association with Complainant.

Panels have held that the use of a domain name for illegal activity, as applicable to this case: impersonation/passing off, or other types of fraud through Respondent's the sale of counterfeit goods or, potential phishing can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel notes that evidence submitted in the Annexes to the Complaint persuasively supports Complainant's argument because it shows each Respondent website prominently features unauthorized use of Complainant's GREENWORKS Mark for the sale of ostensibly competing powered lawn care tools to create the false impression that products for sale at each Respondent website are authorized or affiliated with Complainant but also may be used as a phishing scheme to unlawfully extract financial and personal information from unsuspecting consumers believing Respondent to be Complainant. Respondent, therefore, is using the disputed domain name to confuse Internet users and suggest an affiliation with or sponsorship by Complainant to attract Internet users to its websites for its commercial gain. Based on these facts the Panel finds Respondent's actions are clearly not legitimate and clearly are misleading. Respondent, therefore, cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy. See *Six Continents Hotels v. "m on"*, WIPO Case No. [D2012-2525](#).

According to the [WIPO Overview 3.0](#), section 2.5.1, where a domain name consists of the complainant's trademark and certain additional terms, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the complainant.

Having reviewed the record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted 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 Panel finds the second element of the Policy has been established for each of the disputed domain names.

### **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 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 also 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.

Complainant contends that Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business by configuring and registering each domain name that incorporates the GREENWORKS Mark in its entirety with the addition of geographically descriptive terms "ireland", "mexico", and "nz" the abbreviation for New Zealand. Respondent has thereby configured three domain names for registration that are each confusingly similar to Complainant's trademark, as well as its official domain name. Prior UDRP panels have found a domain name was registered in bad faith where the respondent registered the domain name for the purpose of intentionally attempting to impersonate or mislead in order to commit fraud. See, e.g., *Houghton Mifflin Co. v. The Weatherman Inc.*, WIPO Case No. [D2001-0211](#); *Marlink SA v. Sam Hen, Elegant Team*, WIPO Case No. [D2019-1215](#); *Beam Suntory Inc. v. Name Redacted*, WIPO Case No. [D2018-2861](#).

Prior UDRP panels have also held where the disputed domain name is configured in a manner to wholly incorporate a complainant's mark, as Complainant's GREENWORKS Mark is incorporated with the additional geographical terms here, the disputed domain name can only sensibly refer to Complainant; thus, there is no obvious possible justification for Respondent's selection of the disputed domain names other than registration in bad faith.

As discussed in greater detail in Section 6B above, Complainant shows in evidence in the Annexes to its Complaint that Respondent used each disputed domain name to link it to a copycat website to impersonate Complainant and configured to extract money from Internet users seeking Complainant's products through the purported sale of products which are either counterfeit or non-existent and likely intended only to further a fraudulent phishing scheme which constitutes evidence of bad faith use under the well-established principles in the cases decided under the Policy. See [WIPO Overview 3.0](#), section 3.4; see also *The Coca-Cola Company v. PrivacyProtect.org/ N/A, Stephan Chukwumaobim*, WIPO Case No. [D2012-1088](#); *Ropes & Gray LLP v. Domain Administrator, c/o DomainsByProxy.com / Account Receivable*, WIPO Case No. [D2020-0294](#).

Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain names constitutes bad faith registration and use under the Policy. The Panel finds that the evidence presented here, Respondent's three respective copycat websites selling unauthorized copies of Complainant's products under its GREENWORKS Mark on the respective copycat websites to pass itself off as affiliated with Complainant's Official GREENWORKS Website, as well as further the risk of a fraudulent phishing scheme is sufficient for this Panel to find bad faith registration and use of all three of the disputed domain names. See [WIPO Overview 3.0](#), section 3.4; see also *On AG, On Clouds GmbH v. Web Commerce Communications Limited, Domain Admin, Whoisprotection.cc / Christin Schmidt, Sandra Naumann, Jana Papst*, WIPO Case No. [D2021-2263](#).

The Panel finds 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 that the disputed domain names <greenworksireland.com>, <greenworksmexico.net> and <greenworksny.net> be transferred to Complainant.

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: April 7, 2024