Decision for dispute CAC-UDRP-101784

Case number	CAC-UDRP-101784
Time of filing	2018-01-04 09:16:30
Domain names	greengold.info

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Name	Christian Wiesner

Complainant representative

Organization	SKW Schwarz

Respondent

Name	Michael Benlevi

OTHER LEGAL PROCEEDINGS

The Panel is not aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Panel notes that the Complainant holds various trademarks including:

- EU trade mark 008388753 GREEN GOLD in Nice Classes 5, 29, 32 of 25.06.2009

- EU trade mark 004359361 GREEN FOLD in Nice Classes 3, 5, 29, 30, 31, 32, 35, 38, 42, 44 of 27.11.2003

- German national trade mark 30363873 GREEN GOLD FOREVER YOUNG in Nice Classes 29, 42, 44 of 23.03.2005

- German national trade mark 30332031 Green Gold in Nice Classes 5, 31, 38 of 24.06.2003

- German national trade mark 30363872 Green Gold in Nice Classes 29, 42, 44 of 27.11.2003

- International Registration 1037437 for Belarus, Switzerland, Norway, Russia, Turkey, Ukraine in Nice Classes 5, 29, 32 of 10.03.2010

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

A. Factual Background

The Complainant is the CEO and founder of WellStar GmbH & Co. KG. The company specializes in the marketing of electrical devices for cosmetic use and dietary supplements based on microalgae. The dietary supplements are marketed under the trade mark ‘green gold’. The green gold products are marketed in Germany, Italy, Hungary, Poland, Romania, Austria, Switzerland, and Denmark.

The Complainant holds various trade marks including:

- EU trade mark 008388753 GREEN GOLD in Nice Classes 5, 29, 32 of 25.06.2009

- EU trade mark 004359361 GREEN FOLD in Nice Classes 3, 5, 29, 30, 31, 32, 35, 38, 42, 44 of 27.11.2003

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Recently, the Complainant learnt of the domain <greengold.info>. On the website, the internet user is informed that “This domain is currently not approved for CashParking.”

B. Legal Grounds

I. Confusing similarity

The disputed domain name is confusingly similar to the Complainant's set of trade marks. The second-level domain name “green-gold” is almost identical to the trade mark “green gold”. The presence of the top level domain “.info” is neglible so that the domain name and the protected signs are confusingly similar (see WIPO Case no. D2001.0015, Telecom Personal v. namezero.com).

II. No legitimate interest

Nothing indicates that the Respondent could have a right to the disputed domain name. There is no apparent hint of any kind that the Respondent is operating in any other way under the name of Green Gold or Green-Gold. Moreover, the Complainant has not authorized the registration of the domain.

The Respondent has no legitimate interest in the disputed domain name. The rights of the Complainant predate the domain registration. The Respondent cannot acquire any rights or legitimate interests of his own by just parking a domain name.

In view of the absence of any sort of meaningful content, there is no evidence that the Respondent plans to use the disputed domain name for a bona fide offering or in non-commercial or fair use. (NAF claim no. FA1408001573832, Morgan Stanley v. WhoisPrivacy Protection Service by onomae.com et al.; NAF claim no. FA1505001620489, Lockheed Martin Corporation v. toyosei maruyama).

III. Bad Faith

The circumstances indicate that the Respondent has acquired the disputed domain name for the purpose of selling it or otherwise transferring it to the Complainant, or to a competitor. The rights of the Complainant all predate the registration of the domain. Since registering the disputed domain name, the Respondent has not used the domain for any purpose, effectively parking the domain. Aim of the registration thusly must be to sell or rent out the domain in due time. Moreover, failing to make an active use of a domain name shows bad faith in use and registration (NAF claim no. FA1505001620489, Lockheed Martin Corporation v. toyosei maruyama).The statement “This domain is currently not approved for CashParking” is a clear indication that the Respondent is attempting to sell or rent the Domain. The Complainant’s good name and success is thus unduly exploited by the use of the domain.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. Complainant’s Rights

The Panel notes that the Complainant holds various trademarks including:

- EU trade mark 008388753 GREEN GOLD in Nice Classes 5, 29, 32 of 25.06.2009

- EU trade mark 004359361 GREEN FOLD in Nice Classes 3, 5, 29, 30, 31, 32, 35, 38, 42, 44 of 27.11.2003

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- German national trade mark 30363872 Green Gold in Nice Classes 29, 42, 44 of 27.11.2003

- International Registration 1037437 for Belarus, Switzerland, Norway, Russia, Turkey, Ukraine in Nice Classes 5, 29, 32 of 10.03.2010

The Panel is of the view that the disputed domain name is confusingly similar to the Complainant's set of trade marks. The second-level domain name “green-gold” is almost identical to the trade mark “green gold”. The presence of the top level

domain ".info" is neglible so that the domain name and the protected signs are confusingly similar (see WIPO Case no. D2001.0015, Telecom Personal v. namezero.com).

II. The Respondent does not have any rights or legitimate interest in the domain name

Categories of issues involved:

The Panel finds that nothing indicates that the Respondent could have a right to the disputed domain name. There is no apparent hint of any kind that the Respondent is operating in any other way under the name of Green Gold or Green-Gold. Moreover, the Complainant has not authorized the registration of the domain.

The Panel finds that the Respondent has no legitimate interest in the disputed domain name. The rights of the Complainant predate the domain registration. The Respondent cannot acquire any rights or legitimate interests of his own by just parking a domain name.

In view of the absence of any sort of meaningful content, the Panel concludes that there is no evidence that the Respondent plans to use the disputed domain name for a bona fide offering or in non-commercial or fair use. (NAF claim no. FA1408001573832, Morgan Stanley v. WhoisPrivacy Protection Service by onomae.com et al.; NAF claim no. FA1505001620489, Lockheed Martin Corporation v. toyosei maruyama).

III. The disputed domain name has been registered and is being used in bad faith

Categories of issues involved:

The circumstances indicate that the Respondent has acquired the disputed domain name for the purpose of selling it or otherwise transferring it to the Complainant, or to a competitor. The rights of the Complainant all predate the registration of the domain. Since registering the disputed domain name, the Respondent has not used the domain for any purpose, effectively parking the domain. As such, the Panel agrees that aim of the registration of the disputed domain name must be to sell or rent out the domain in due time. Moreover, the Panel agrees that failing to make an active use of a domain name shows bad faith in use and registration (NAF claim no. FA1505001620489, Lockheed Martin Corporation v. toyosei maruyama).The statement "This domain is currently not approved for CashParking" is a clear indication that the Respondent is attempting to sell or rent the Domain. Therefore, the Panel concludes that the Complainant's good name and success is thus unduly exploited by the use of the domain.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **GREENGOLD.INFO**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm, Esq.**

DATE OF PANEL DECISION 2018-02-06

Publish the Decision