

ADMINISTRATIVE PANEL DECISION

Dansko, LLC v. Nadison Cherish
Case No. D2024-5125

1. The Parties

The Complainant is Dansko, LLC, United States of America ("United States"), represented by Cozen O'Connor, United States.

The Respondent is Nadison Cherish, United States.

2. The Domain Name and Registrar

The disputed domain name <dansko-sale-us.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 12, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown Registrant / Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 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 December 17, 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 December 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 12, 2025.

The Center appointed Michelle Brownlee as the sole panelist in this matter on January 15, 2025. 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 limited liability company that was established in 1990 under the laws of Pennsylvania, United States. The Complainant is in the business of selling comfort footwear.

The Complainant owns numerous registrations for the DANSKO trademark in the United States, including the following:

Registration Number 2712957 for DANSKO in connection with footwear, namely, casual outdoor shoes and work shoes for use in the health care, food service, equestrian, and general service industries in International Class 25, registered on May 6, 2003;

Registration Number 3265194 for DANSKO in connection with footwear; component parts of footwear, namely, tips and heel pieces; and leather shoes and imitation leather shoes, registered on July 17, 2007; and

Registration Number 3854991 for DANSKO in connection with socks in International Class 25, registered on September 28, 2010.

The Complainant owns the domain name <dansko.com> and uses it to operate a web site.

The Respondent registered the disputed domain name on December 3, 2024. The Respondent is using the disputed domain name in connection with a web site that purports to sell the Complainant's products and displays the Complainant's logo.

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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's DANSKO trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the Respondent registered and is using the disputed domain name in bad faith by using it to operate a web site that conveys the appearance of being operated by the Complainant due to use of the Complainant's DANSKO trademark and photos of the Complainant's products.

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 terms here, "sale" and "us," may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Panels have held that the use of a domain name for illegitimate activity, here, claimed passing off as the Complainant, 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 intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The Respondent is using the disputed domain name to host a website that prominently displays the Complainant's trademark and images of the Complainant's footwear products. The Panel finds that the Respondent's actions constitute bad faith use and registration under paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegitimate activity, here, claimed passing off as the Complainant, 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 name 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 <dansko-sale-us.com> be transferred to the Complainant.

/Michelle Brownlee/

Michelle Brownlee

Sole Panelist

Date: January 26, 2025