

## ADMINISTRATIVE PANEL DECISION

Dansko, LLC v. 许志 许志 (Zhi Xu)

Case No. D2025-0376

### 1. The Parties

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

The Respondent is 许志 许志 (Zhi Xu), China.

### 2. The Domain Name and Registrar

The disputed domain name <dansko.top> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 30, 2025. On January 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 2025, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 2025, 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 in English on February 6, 2025.

On February 5, 2025, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On February 6, 2025, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in Chinese and English, and the proceedings commenced on February 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2025. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on March 6, 2025.

The Center appointed C. K. Kwong as the sole panelist in this matter on March 12, 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 the registered owner of trademarks consisting of or embodying the word "dansko". As claimed in the amended Complaint and referred to in Annex 8 to the amended Complaint, these include the following registrations in the United States Patent and Trademark Office:

Mark	Registration No.	International Classification of goods/services
DANSKO	Registration No. 2712957 registered on May 6, 2003	25
DANSKO	Registration No. 4229847 registered on October 23, 2012	3, 18, 25, and 35
DANSKO and Design	Registration No. 3265196 registered on July 17, 2007	25

The Complainant supplies footwear to customers around the world since 1990. Beginning with sales of clogs, the line of footwear now includes boots, sandals, flats, and sneakers. The Complainant's products have been recommended by health care professionals for decades. The Complainant operates an official website using the domain name <dansko.com> (Annexes 5, 6, and 7 to the amended Complaint). The uncontradicted evidence produced by the Complainant shows that the use and registration of its DANSKO mark occurred well before the registration of the disputed domain name <dansko.top> on January 17, 2025. The disputed domain name automatically redirects to a website using the domain name <dansko-outlet.shop> at which products of the same type and description as those of the Complainant were offered for sale, namely clogs, boots and shoes.

Other than the particulars shown in the printout of the Whois database search conducted by the Complainant (as provided in Annex 1 to the amended Complaint), the website pages as shown in Annex 4 to the amended Complaint, and the registrant information as disclosed by the Registrar and thus reflected in the amended Complaint, there is no evidence on the record concerning the background, businesses or activities of the Respondent.

#### 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, for the following reasons.

The Complainant has rights in the DANSKO mark. The disputed domain name is identical to the Complainant's registered DANSKO trademark, incorporating the DANSKO trademark in its entirety and adding to it only the Top-Level Domain ("TLD") ".top". The TLD indicator ".top" cannot be taken into consideration when judging confusing similarity.

There presently is no evidence of any connection between the Respondent and the disputed domain name. The Respondent was using a privacy Whois service and cannot be commonly known by the disputed domain name.

No license or authorization has been given by the Complainant to the Respondent, to use the trademark DANSKO. The Respondent is not associated with the Complainant.

The Respondent was neither making a bona fide offering of goods nor legitimate noncommercial or fair use of the disputed domain name.

The contents of the website to which the disputed domain name ultimately resolves show the Respondent's familiarity with the Complainant's mark DANSKO and its products at the time of registration of the disputed domain name which was many years after the Complainant's registration of its mark DANSKO.

The Respondent has used the Complainant's trademark DANSKO on the website to which the disputed domain name ultimately resolves, offering to sell unauthorized or counterfeit footwear products. The Respondent registered the disputed domain name with full knowledge of the Complainant's trademark DANSKO and is using the disputed domain name identical to the Complainant's trademark in order to mislead Internet users to access the Respondent's commercial website.

## **B. Respondent**

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

## **6. Discussion and Findings**

Having considered the records in the case file, the Panel is satisfied that the Center has discharged its responsibility under paragraph 2(a) of the Rules to employ reasonably available means calculated to achieve actual notice to the Respondent of the Complaint. It is further noted that the delivery records of the Written Notice as shown in the case file indicated the Written Notice was successfully delivered.

### **6.1 Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English by reason that the website to which the disputed domain name resolves has contents entirely in English which shows that the Respondent has a clear understanding of the English language.

The Respondent did not make any specific submissions with respect to the language of the proceeding. In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## 6.2 The Three Elements

In rendering its Decision, the Panel must adjudicate the dispute in accordance with paragraph 15(a) of the Rules which provides that, “[t]he Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 14(b) of the Rules further provides that, “[i]f a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any requests from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate”.

The said three elements are considered 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 the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademark DANSKO for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark DANSKO is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical 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.

There is no legitimate explanation on the record as to why it was necessary for the Respondent to adopt the word “dansko” in its disputed domain name.

The Complainant has also confirmed that it has not licensed the Respondent to use its trademark DANSKO in the disputed domain name.

Having reviewed the available records, 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.

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.

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 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.

The Complainant has registered its DANSKO trademark as detailed in Section 4 above and has been using it for over 10 years before the registration of the disputed domain name by the Respondent in 2025.

The contents of the website to which the disputed domain name resolves show that the Respondent is marketing footwear products bearing or by reference to the mark DANSKO, being exactly the Complainant's mark and in relation to the same types of goods of the Complainant.

It is further noticed that in addition to the word mark DANSKO, even the Complainant's DANSKO and device composite mark (as shown in Annex 8 to the amended Complaint) being the subject of United States Trademark registration No. 3265196 recited in Section 4 above, with the rather unique distinctive 4-layer wing like feature, was also used in the website to which the disputed domain name ultimately resolves.

By reason of the above and the incorporation of the unique DANSKO trademark entirely letter by letter as part of the disputed domain name without any explanation and the Complainant's prior substantial use of the DANSKO mark, it leads to the conclusion that the Respondent must have been aware of the existence of the Complainant and its trademark DANSKO at the time of the registration and use of the disputed domain name.

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.top> be transferred to the Complainant.

*/C. K. Kwong/*

**C. K. Kwong**

Sole Panelist

Date: March 26, 2025