

## ADMINISTRATIVE PANEL DECISION

Dansko, LLC v. 许志 许志 (Zhi Xu)

Case No. D2025-0713

### 1. The Parties

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

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

### 2. The Domain Name and Registrar

The disputed domain name <dansko-outlet.shop> ("Disputed Domain Name") is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

### 3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 20, 2025. On February 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 24, 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 in Chinese and English to the Complainant on February 26, 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 27, 2025.

On February 26, 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 27, 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 in Chinese and English of the Complaint, and the proceedings commenced on February 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 24, 2025.

The Center appointed Andrew Sim as the sole panelist in this matter on March 28, 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 footwear company incorporated in the State of Pennsylvania, USA, which sells a variety of footwear, including clog, boots, sandals, etc.

The Complainant is the owner of a number of DANSKO-formative trademarks and service marks (the "Mark"), including the following trademark registrations in USA:

- (a) DANSKO and design in Class 25, United States Patent and Trademark Office Registration No. 2712953, registered on May 6, 2003;
- (b) DANSKO and design in Classes 3, 18, 25, and 35, United States Patent and Trademark Office Registration No. 4229969, registered on October 23, 2012; and
- (c) DANSKO in Classes 3, 18, 25, and 35, United States Patent and Trademark Office Registration No. 4229847, registered on October 23, 2012.

According to the Complainant's evidence, upon visiting the Disputed Domain Name, it resolves to a website ("Respondent's Website") in English language on which the Mark is prominently featured at the top left, and footwear goods identical to that of the Complainant were purportedly offered.

The Disputed Domain Name was registered on January 18, 2025. Little information is known about the Respondent. Available information provided by the Registrar covers only the registrant's name, postal address, email address, telephone number, and facsimile number.

#### **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.

First, the Complainant contends that the Disputed Domain Name is identical or confusingly similar to the Mark. The Disputed Domain Name wholly incorporates the Mark. Besides, the addition of the term "outlet" does not distinguish the Disputed Domain Name from the Mark but increases the likelihood of confusion, as it indicates that it is a place to shop for the Complainant's footwear at a discount. The Complainant also submits that the new generic Top-Level Domain ("gTLD") ".shop" used in the Disputed Domain Name shall not affect the determination of identity or similarity between a domain name and trademark. Based on the above, the Complainant alleges that consumers are likely to believe that the Disputed Domain Name is associated with the Complainant and its Mark.

Second, the Complainant submits that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name for the reasons below:

- (a) the Respondent is an individual who is not affiliated or connected with the Complainant;
- (b) there is no evidence to suggest that the Respondent has registered the Disputed Domain Name to advance legitimate interests for bona fide offering of legitimate goods or services;
- (c) the Respondent is not commonly known as or connected with “Dansko”, nor is the Respondent authorized, licensed, or endorsed by the Complainant to use the Mark in the Disputed Domain Name; and
- (d) the Respondent’s Website resolves to a website with content infringing the Complainant’s copyright, on which the footwear goods identical to that of the Complainant were purportedly offered.

Additionally, the Complainant invites the Panel to take into account and draw adverse inferences from the fact that the Respondent has registered the Disputed Domain Name anonymously.

Third, the Complainant contends that the Disputed Domain Name was registered and is being used in bad faith for the reasons below:

- (a) the Disputed Domain Name resolves to the Respondent’s Website, which purports to sell footwears identical to that of the Complainant;
- (b) the anonymity of the Respondent’s registration of the Disputed Domain Name supports the inference that the Respondent has knowingly engaged in the registration and use of the Disputed Domain Name in bad faith;
- (c) the registration and use of the Disputed Domain Name comes many years after the Complainant’s registration of the Mark;
- (d) the Respondent appears to register the Disputed Domain Name to confuse consumers in an attempt to fraudulently obtain personal information from Internet visitors who believe that the Disputed Domain Name is actually associated with the Complainant; and
- (e) the registration and use of the Disputed Domain Name appears to be an attempt to rely on the Complainant’s and its Mark’s goodwill and reputation for commercial gain and profit resulting from consumer’s confusion.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: 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 on the basis that the Respondent's Website located at the Disputed Domain Name is in English.

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. Substantive Issues**

Paragraph 4(a) of the Policy states that, in an administrative proceeding, the Complainant must prove each of the following three elements:

- (a) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (c) the Disputed Domain Name has been registered and is being using in bad faith.

For the below reasons, support for the Complaint can be found due to the satisfaction of the three conditions for the Disputed Domain Name.

### **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 Mark and the Disputed Domain Name. [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 entire Mark is recognizable within the Disputed Domain Name, with an addition of the term "-outlet" and the Top-Level Domain ("TLD") ".shop" after the DANSKO word mark.

In respect of the addition of the term "-outlet", the Panel agrees with the Complainant's submission that such addition does not prevent a finding of confusing similarity between the Disputed Domain Name and the Mark for the purposes of the Policy because the Mark is recognizable within the Disputed Domain Name. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

Regarding the TLD ".shop", as the Complainant correctly points out, it is well known and established that gTLD, such as ".com", ".info", and ".net", may be disregarded when assessing the confusing similarity between the Disputed Domain Name and the Mark. Only the second-level portion of the Disputed Domain Name is taken into consideration. Accordingly, ".shop" is disregarded for the present purpose. [WIPO Overview 3.0](#), section 1.11.

Accordingly, the Disputed Domain Name is confusingly similar to the Mark for the purposes of the Policy.

## **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.

From the overall appearance of the Respondent’s Website as described in section 4 above, the Panel finds that the Respondent’s Website is used for illegal or illegitimate activities impersonating the Complainant for the following reasons:

- (a) The Mark is reproduced on the Respondent’s Website in a prominent manner. The Website contains a copyright notice “© Dansko, LLC. All Rights Reserved 2025”. The Respondent has never been licensed or otherwise permitted to do so; and
- (b) By purporting to offer footwear goods identical to that of the Complainant on the Respondent’s Website, the Respondent intends to create confusion to customers.

Particularly in regards to the three illustrative examples of legitimate interests in paragraph 4(c) of the Policy, the Panel finds that:

- (a) the Respondent has not used the Disputed Domain Name in connection with a bona fide offering of goods or services, as the Panel has ruled that the Respondent’s Website is being used for illegal or illegitimate activities impersonating the Complainant;
- (b) the Disputed Domain Name does not correspond with the Respondent’s name (i.e., “许志 许志 (Zhi Xu)”), and there is no evidence of the Respondent operating any business or organization with similar name as the Disputed Domain Name; and
- (c) the Respondent’s use of the Disputed Domain Name does not fall within the scope of legitimate noncommercial or fair use, as the Respondent’s Website is being used for illegal or illegitimate activities impersonating the Complainant.

Accordingly, 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.

The Panel finds that the circumstances of registering and using the Disputed Domain Name clearly demonstrate the Respondent's bad faith and have constituted the situation as specified in paragraph 4(b)(iv) of the Policy:

- (a) the Mark has been registered for more than 20 years before the Respondent's registration of the Disputed Domain Name which is confusingly similar to the Mark;
- (b) taking into account the fact that the Respondent's Website purports to sell footwear identical to that of the Complainant, the Respondent is likely to have actual knowledge of the Mark at the time of registering the Disputed Domain Name;
- (c) as found in section 6.2B above, the Respondent's Website is being used for illegal or illegitimate activities impersonating the Complainant, and thus the Respondent's bad faith is manifestly apparent. [WIPO Overview 3.0](#), section 3.4;
- (d) a presumption of bad faith is created from the fact that the Respondent, being an unaffiliated individual with the Complainant, registered the Disputed Domain Name which is confusingly similar to the famous Mark, without any possible justification, particularly noting the discussion in section 6.2B above. [WIPO Overview 3.0](#), section 3.1.4;
- (e) there is no reasonable connection or association between the Respondent and the Disputed Domain Name; and
- (f) the risk of confusion arises from the composition of the Disputed Domain Name.

The Panel finds that the Complainant has established the third element of the Policy.

The Panel noted that the Complainant had invited the Panel to draw adverse inference from the facts that the Respondent has registered the Disputed Domain Name in an anonymous manner. The Panel considers there is no need to draw such inferences as the record available sufficiently shows that the Respondent has used the Respondent's Website for illegal or illegitimate activities, and thus indicating that the Respondent has no legitimate interests in the Disputed Domain Name and has registered and used the Disputed Domain Name in bad faith.

## 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-outlet.shop> be transferred to the Complainant.

*/Andrew Sim/*

**Andrew Sim**

Sole Panelist

Date: April 11, 2025