

ADMINISTRATIVE PANEL DECISION

Mark's Work Wearhouse Ltd., v. lu sha
Case No. D2025-2789

1. The Parties

The Complainant is Mark's Work Wearhouse Ltd., Canada, represented by Norton Rose Fulbright Canada LLP, Canada.

The Respondent is lu sha, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <marksonlineca.com> (the "Disputed Domain Name") is registered with West263 International Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 14, 2025. On July 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 16, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 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 on July 18, 2025.

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 July 24, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 18, 2025.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on August 21, 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 states that it “has been operating for over forty years,” is “a famous Canadian retailer of goods” with more than 380 stores in Canada, employs (directly or via dealers and franchisees) “thousands of people” and had approximate annual revenue in 2024 of 1.52 billion Canadian Dollars. The Complainant states that it is the registrant of the domain name <marks.com>, which it uses in connection with a website, since the year 2000, to sell clothing.

The Complainant states, and provides documentation in support thereof, that it is the owner of 16 trademark registrations for trademarks that consist of or incorporate the word MARK’S (the “MARK’S Trademark”), including Canadian Reg. No. TMA823396 for MARK’S (registered May 4, 2012) for use in connection with, inter alia, clothing; and U.S. Reg. No. 6,222,243 for MARK’S (registered December 15, 2020) for use in connection with “retail stores featuring clothing, footwear, headwear, and outerwear.”

The Disputed Domain Name was created on April 19, 2025. The Complainant states, and provides a screenshot in support thereof (dated April 21, 2025), that the Disputed Domain Name “has been used to host a website wrongfully attempting to pass itself off to internet users and customers as being the Complainant and/or affiliated with the Complainant” by displaying the MARK’S Trademark and “showing the same or similar products that the Complainant sells in its stores and online such as clothing.” As of June 29, 2025, Complainant states that “the website hosted at the Disputed Domain Name is no longer available and shows an error message.”

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 MARK’S Trademark because the Disputed Domain Name “incorporates the entirety” of the MARK’S Trademark and that “‘onlineca’ does not mitigate or preclude a finding of confusion.”
- The Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent has not been authorized or licensed by the Complainant to use the [MARK’S] Trademark[] in any way, including in respect of the Disputed Domain Name, and has no connection or affiliation with the Complainant”; “Respondent did not register the Disputed Domain Name until decades after the Complainant had begun using and promoting the [MARK’S] Trademark[] in association with its goods and services in Canada and as a result had created widespread recognition of the [MARK’S] Trademark[]”; “[t]he fact that the Disputed Domain Name contains the Complainant’s [MARK’S] Trademark[] in their entirety suggests that the Respondent’s intention is to target and impersonate the Complainant in order to misleadingly divert the Complainant’s website users and business, which does not constitute bona fide use”; and “Respondent’s use of the Disputed Domain Name to fraudulently impersonate the Complainant further supports that the Respondent has no rights or legitimate interests in the Disputed Domain Name.”
- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, the MARK’S Trademark has been “both registered and extensively known in Canada (and internationally) for decades,” making “it highly improbable that the Respondent was not aware of the [MARK’S] Trademark[]

when it registered the Disputed Domain Name” and “as the Disputed Domain Name was used with a website purporting, falsely, to be the Complainant’s website, this supports that the Disputed Domain Name was registered and used to further illegal conduct (i.e. fraud and/or impersonation).” Further, the Complainant states that the Respondent is also the registrant of the domain name <marksca.shop>, which is the subject of WIPO Case No. [D2025-2770](#) (in which this Panel has also been appointed), which “establishe[s] a pattern of bad faith conduct.”

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by the Complainant, it is apparent that the Complainant has rights in and to the MARK’S Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the MARK’S Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., “marksonlineca”) because “[t]he applicable Top-Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” The absence of an apostrophe from the Complainant’s MARK’S Trademark in the Disputed Domain Name (an impermissible character in any domain name) is irrelevant for purposes of the Policy. See, e.g., *Trader Joe’s Company v. Trader Joe’s / John Murray of Trader Joes Inc., d/b/a Trader Joes Furniture*, WIPO Case No. [D2016-0591](#) (“[t]he omission of the apostrophe, a character not permitted in domain names, is irrelevant for analysis of whether the Disputed Domain Name is confusingly similar to Complainant’s mark”).

Further, as set forth in section 1.8 of [WIPO Overview 3.0](#): “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. “Clearly, the word “online” is descriptive, and the letters “ca” are an abbreviation for Canada, where Complainant is located and has 380 stores.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Complainant has argued that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, “Respondent has not been authorized or licensed by the Complainant to use the [MARK’S] Trademark[] in any way, including in respect of the Disputed Domain Name, and has no connection or affiliation with the Complainant”; “Respondent did not register the Disputed Domain Name until decades after the Complainant had begun using and promoting the [MARK’S] Trademark[] in association with its goods and services in Canada and as a result had created widespread recognition of the [MARK’S] Trademark[]”; “[t]he fact that the Disputed Domain Name contains the Complainant’s [MARK’S] Trademark[] in their entirety suggests that the Respondent’s intention is to target and impersonate the Complainant in order to misleadingly divert the Complainant’s website users and

business, which does not constitute bona fide use”; and “Respondent’s use of the Disputed Domain Name to fraudulently impersonate the Complainant further supports that the Respondent has no rights or legitimate interests in the Disputed Domain Name.”

[WIPO Overview 3.0](#), section 2.1, states: “[w]hile 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.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location. Policy, paragraph 4(b).

By using the Disputed Domain Name in connection with a website that, as described by the Complainant, is “wrongfully attempting to pass itself off to internet users and customers as being the Complainant and/or affiliated with the Complainant” by displaying the MARK’S Trademark and “showing the same or similar products that the Complainant sells in its stores and online such as clothing,” Respondent is clearly and intentionally “creating a likelihood of confusion” with the MARK’S Trademark, constituting bad faith pursuant to paragraph 4(b)(iv) of the Policy. See, e.g., *Arla Foods amba v. Jucco Holdings*, WIPO Case No. [D2006-0409](#) (“the practice of registering a domain name and using it to redirect a user to a website which is used for the sale of competing services constitutes evidence of registering and using a trademark in bad faith”). The fact that the Respondent had stopped using the Disputed Domain Name in such manner shortly before the Complainant filed the Complaint is irrelevant and does not negate bad faith.

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 <marksonlineca.com> be transferred to the Complainant.

/Douglas M. Isenberg /

Douglas M. Isenberg

Sole Panelist

Date: August 25, 2025