

## **ADMINISTRATIVE PANEL DECISION**

**MARK'S WORK WEARHOUSE LTD. v. ad da**  
**Case No. D2025-3043**

### **1. The Parties**

The Complainant is MARK'S WORK WEARHOUSE LTD., Canada, represented by Gowling WLG (Canada) LLP, Canada.

The Respondent is ad da, Republic of Korea.

### **2. The Domain Names and Registrar**

The disputed domain names <markscanada.com> and <marksshop.shop> are 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 31, 2025. On July 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 1, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 August 7, 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 August 8, 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 August 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 3, 2025.

The Center appointed Catherine Slater as the sole panelist in this matter on September 17, 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 Canadian company founded in 1977. Since 2002, it has been a subsidiary of Canadian Tire Corporation Limited. The Complainant currently operates over 380 retail stores in Canada and a retail website at “www.marks.com”. It offers clothing, footwear and accessories for men, women and children. In 2024, the Complainant generated revenues of over CAD 1.5 billion.

The Complainant owns numerous trademark registrations for MARK’S (“the Complainant’s Trademark”) including:-

- Canadian Trademark No. TMA823396 for MARK’S (plain word mark) registered on May 4, 2012;
- United States of America Trademark No. 6222243 for MARK’S (plain word mark) registered on December 15, 2020.

Canadian Tire Corporation Limited owns the domain name <marks.com> which was registered on October 6, 1998.

The Respondent has provided a clearly false name and address.

The disputed domain names <markscanada.com> and <marksshop.shop> were registered on June 6, 2025 and May 20, 2025 respectively.

On July 12, 2025, a date shortly before the filing of the Complaint, the disputed domain name <markscanada.com> resolved to a website offering for sale clothing items.

The Complainant asserts that the disputed domain name <marksshop.shop> previously resolved to a website identical to that at <markscanada.com> as recent as in July of 2025, but at the date upon which the Complaint was filed, it did not resolve to any active website. No sufficient evidence is submitted in this regard.

At the date of this Decision, the disputed domain names did not resolve to any active website.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Complainant’s Trademark because the disputed domain names misappropriate the whole of the Complainant’s Trademark with the addition of mere generic non-distinctive elements “canada” and “shop” respectively.

The Complainant further contends that the Respondent does not have rights or legitimate interests in the disputed domain names because the Respondent has intentionally traded on the goodwill and reputation in the Complainant’s Trademark, there has never been any relationship between the Parties, the Respondent is not licensed or otherwise authorized to register or use the Complainant’s Trademark, there is no evidence

that the Respondent has ever been commonly known by the disputed domain names, and the Respondent's use of the disputed domain names is manifestly commercial.

The Complainant further contends that the disputed domain names have been registered and used in bad faith. In this regard, it contends that the disputed domain names were registered primarily for the purpose of disrupting the business of the Complainant because Internet users will be confused into believing that the Respondent's activities are affiliated with the Complainant in some manner and that such confusion will harm the goodwill in the Complainant's Trademark and cause serious disruption to the Complainant's business. It contends that the use of a privacy shield and the provision of false contact details further demonstrates bad faith. The Complainant further contends that the Respondent has used the disputed domain names in bad faith by intentionally attempted to attract for commercial gain, Internet users to a website by creating a likelihood of confusion with the Complainant's Trademark as to source, sponsorship, affiliation or endorsement of that website.

## **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 names. Accordingly, the disputed domain names are 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, "canada" and "shop" (used separately in each disputed domain name), 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 names 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 names. 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 names such as those enumerated in the Policy or otherwise.

For completeness, the Panel is satisfied that the use of <markscanada.com>, as evidenced on July 12, 2025, seeks to take unfair advantage of the Complainant's Trademark (as discussed in more detail below) and cannot therefore give rise to rights or legitimate interests.

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 the Complainant's Trademark, through significant and long-standing use, has become well known in relation to the sale of clothing, footwear and accessories in Canada. The Respondent has provided no explanation for its registration and use of the disputed domain names. The Panel notes that in one of the disputed domain names, the Respondent has elected to combine the Complainant's Trademark with the geographical location (Canada) in which that trademark is well known. The Panel therefore infers in the circumstances that the Respondent registered the disputed domain names with the Complainant's Trademark in mind and with the intention to take advantage of that trademark.

The Respondent has used the disputed domain name <markscanada.com> to divert Internet users looking for the Complainant's services to its own competing website. The Panel therefore finds that in relation to the disputed domain name <markscanada.com>, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

If the disputed domain name <marksshop.shop> had been used in the same manner as <markscanada.com>, then such use would clearly also be in bad faith. Unfortunately, there is no evidence of such use.

However, Panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), 3.1.4. In circumstances where the Respondent has used the similar disputed domain name <markscanada.com> in bad faith that presumption is substantiated.

In any event, even if the Respondent has made no use of <marksshop.shop>, the passive holding of that disputed domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes (i) the reputation of the Complainant's Trademark, (ii) the Respondent's failure to submit a response or provide any evidence of actual or contemplated good-faith use, (iii) that the Respondent has concealed its identity and used false contact details and (iv) the implausibility of any good faith use to which the Respondent may put <marksshop.shop> particularly taking into account its bad faith use of <markscanada.com>, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of 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 names <markscanada.com> and <marksshop.shop> be transferred to the Complainant.

*/Catherine Slater/*

**Catherine Slater**

Sole Panelist

Date: October 1, 2025