

ADMINISTRATIVE PANEL DECISION

Dansko, LLC v. Milen Radumilo

Case No. D2023-3412

1. The Parties

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

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <danskoclogs.info> is registered with Communigal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 10, 2023. On August 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 11, 2023, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown Registrant, c/o CommuniGal Communications Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 2023, 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 14, 2023.

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 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 19, 2023.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on September 26, 2023. 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, founded in 1990, is based in the United States and trades in the business of providing comfort footwear to customers around the world. Evidence of this is contained in Annexes 4 and 5 to the Complaint. The business commenced with the sale of clogs but now sells other footwear including boots, sandals, flats, and sneakers all designed for long-wear and comfort.

The Complainant's footwear has been a top choice for medical professionals to recommend for over two decades as can be seen from the document headed: "Comfort Crafted for Healthcare Professionals" exhibited at Annex 6.

The Complainant submits that as a result of its trading under the marks DANSKO and its use and promotion of the marks it has acquired significant common law rights in the marks.

The Complainant adduces evidence of United States trade mark registrations for the mark DANSKO including the following:

DANSKO	3854991	Class 25	Registered September 28, 2010
DANSKO	4229847	Classes 3,18, 25, 35	Registered October 23, 2012
DANSKO	3265194	Class 25	Registered July 17, 2007
DANSKO	2712957	Class 25	Registered May 6, 2003
DANSKO and design	4229969	Classes 3,18, 25,35	Registered October 23, 2012
DANSKO and design	3265196	Class 25	Registered July 17, 2007
DANSKO NATURAL ARCH	5638606	Class 25	Registered December 25, 2018
DANSKO NATURAL ARCH PLUS	6540779	Class 25	Registered October 26, 2021
DANSKO XP	4172633	Class 25	Registered July 10, 2012

Copies of certificates of registration of the above marks at the United States Patent Trademark Office are exhibited at Annex 7 to the Complaint.

The Complainant also points out that it has spent significant resources protecting the marks from infringement.

The Complainant shows that the disputed domain name was registered on June 28, 2023. The disputed domain name resolved to a pay-per-click (“PPC”) webpage with an offer to “buy this domain”. The Respondent has not filed a Response. In the absence of a Response the Panel finds the above evidence as adduced by the Complainant to be true.

5. Parties’ Contentions

A. Complainant

The Complainant submits:

- i. The disputed domain name is confusingly similar to the Complainant’s trade marks DANSKO in which it has registered rights; and
- ii. On the evidence the Respondent has no legitimate interests in the disputed domain name; and
- iii. On the evidence the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established on the basis of the evidence of its trade mark registrations set out in Section 4 above that it has rights in the mark DANSKO. The disputed domain name consists of the mark DANSKO together with the word “Clogs”.

In the Panel’s view, the Complainant’s mark DANSKO is recognizable within the disputed domain name. The Panel agrees with the Complainant that the addition of the term “clogs” does nothing to distinguish the disputed domain name from the trade mark DANSKO.

The Complainant rightly submits that it is well-established that the use of the generic Top-Level Domain, in this case “.info”, can be disregarded in determining the identity or similarity between the trade mark and disputed domain name.

The Panel agrees with this submission and finds that the disputed domain name is confusingly similar to the trade mark DANSKO in which the Complainant has established rights within paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In support of its contention that the Respondent has no rights or legitimate interests in the disputed domain name the Complainant submits:

- i. There is no evidence to suggest that the Respondent has registered the disputed domain name for a *bona fide* offering of legitimate goods or services;
- ii. The Respondent is Milen Radumilo and there is no evidence that he is commonly known as “Dansko” or any of the terms in the disputed domain name;
- iii. There is no evidence of any connection between the Respondent and the disputed domain name. The Complainant has not authorized, licensed, or endorsed the use of the marks DANSKO in the disputed domain name;
- iv. The Complainant relies upon the evidence contained in Annex 8 to the Complaint which shows a screenshot of the disputed domain name as apparently parked by the Respondent with PPC links and an offer to “buy this domain”. This supports the submission that there is no evidence of a legitimate noncommercial or fair use of the disputed domain name.

In summary the Complainant submits that the Respondent cannot establish any rights or legitimate interests in the disputed domain name. To the contrary the evidence contained in Annex 8 shows that the Respondent registered the domain name in an attempt to “syphon off” the Complainant’s goodwill.

Having considered the evidence and in the absence of a Response and evidence from the Respondent to show rights or legitimate interests in the disputed domain name, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits that the Respondent’s adoption and use of the disputed domain name is in bad faith and is in “willful” infringement of the Complainant’s prior rights. The Respondent has attempted to take commercial advantage of the Complainant’s trade marks and reputation and trade off its goodwill in the mark DANSKO. The Panel takes particular note of the fact that the disputed domain name consists of the Complainant’s identical mark DANSKO in conjunction with the word “clogs” which is a product of the Complainant. This is evidence of an attempt by the Respondent to trade off the Complainant’s goodwill and reputation in the mark DANSKO.

The Complainant relies upon the similarity of the disputed domain name to the DANSKO marks which shows that the disputed domain name was registered and is being used to intentionally attract Internet users for commercial gain. It submits that the Respondent would have had constructive notice of the registered marks DANSKO and that this would support a finding of bad faith.

Relying upon WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#), section 3.1.2”), panels have held that “establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration”.

The Complainant relies upon this in the context of the fact that the Respondent has been involved in numerous domain name complaints which have culminated in findings that the disputed domain names should be transferred from the Respondent to the complainant in those complainants.

Six decisions are cited by the Complainant including *Carrefour SA v. Contact Privacy Inc. Customer 0164074004 / Milan Radumilo*, WIPO Case No. [D2022-1739](#) in which that Panel found:

“Respondent’s bad faith is further evident in being the subject of more than 140 domain name disputes in the past. Far from engaging in a *bona fide* offering, the Respondent purposefully provided links to websites and web services that compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.”

Furthermore, the Panel also finds that by setting up a PPC website with an offer to “buy this domain”, the Respondent is using the disputed domain name for its own commercial benefit.

The Panel therefore concludes that the use of the disputed domain name is in bad faith under paragraphs 4b(i), and 4(b)(iv) of the Policy.

Having considered the Complainant's submissions and supporting evidence, in the absence of a Response, this Panel is satisfied that the disputed domain name was registered and is being used by the Respondent in bad faith within paragraph 4(a)(iii) 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 <danskoclogs.info> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: October 11, 2023