

ADMINISTRATIVE PANEL DECISION

Dansko, LLC v. fucu
Case No. D2024-3022

1. The Parties

The Complainant is Dansko, LLC, United States of America (“United States”), represented by Cozen O’Connor, United States.

The Respondent is fucu, United States.

2. The Domain Name and Registrar

The disputed domain name <danskofootwear.shop> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 2024, 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 August 14, 2024, 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, 2024, and a second amended Complaint on August 15, 2024.

The Center verified that the Complaint together with the amended Complaints 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 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on September 11, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on September 17, 2024. 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 markets footwear (including clogs, boots, sandals, flats, and sneakers) internationally under the DANSKO mark, for which it has registered several trademarks, including the following:

- United States Trademark Registration No. 2712953 for DANSKO (device mark), registered on May 6, 2003 for goods in class 25, claiming a date of first use in January 1991;

- United States Trademark Registration No. 2712957 for DANSKO (word mark), registered on May 6, 2003 for goods in class 25, claiming a date of first use in January 1991.

The disputed domain name was registered on July 10, 2024. At the time of the Complaint and of this Decision, it resolves to an e-commerce website stating "SOAP. Buy the Best Hand Soap, Body Wash and More at Soap Haven." Various soap products appear to be offered for sale. The website provides a customer service e-mail address using the disputed domain name.

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 it has provided comfort footwear to customers around the world since 1990. Beginning with clog sales, the Complainant now offers other footwear including boots, sandals, flats, and sneakers. Complainant's footwear is a top choice of medical professionals. The disputed domain name incorporates the Complainant's DANSKO mark plus the term "footwear," which does not eliminate the confusing similarity. The Respondent is not affiliated with the Complainant and has no rights in the mark. The disputed domain name resolves to a website that offers goods for sale, thereby mimicking the Complainant. The registration of the disputed domain name is an attempt to syphon the goodwill and reputation from Complainant and its DANSKO mark for commercial gain and to profit from the resulting consumer confusion. The Respondent provided false contact information.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] 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”.

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 Complainant’s DANSKO mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is 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, “footwear”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 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 notes that the composition of the disputed domain name, which reflects the Complainant’s DANSKO trademark together with the term “footwear,” referring to the Complainant’s business, carries a risk of implied affiliation to the Complainant that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

The Panel further finds that there is no evidence available that would support a finding that the disputed domain name is being used for a legitimate purpose and not as a pretext for commercial activity. The Panel notes that there is no information for Internet users visiting the Respondent's website that it is not operated by the Complainant. Similarly, there is no actual connection between the Complainant's DANSKO trademark in the disputed domain name and the corresponding website content, which is related to soap.

[WIPO Overview 3.0](#), section 2.5.2. According to UDRP practice, a respondent's use of a complainant's mark to redirect users (e.g., to a competing site) would not support a claim to rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.3. In this case, the Panel finds that the disputed domain name resolves to the Respondent's "Soap Haven" e-commerce website, thus using the Complainant's mark in the disputed domain name to mislead Internet users expecting to find a website associated with the Complainant and its trademarked footwear.

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.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain name was registered more than 20 years after the Complainant registered its DANSKO trademark. It reflects the Complainant's mark in its entirety plus a term referring to the Complainant's business, therefore implying a connection to the Complainant. Under these circumstances, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The use of the disputed domain name to resolve to the Respondent's e-commerce website is further evidence of bad faith. The Respondent has provided no evidence of actual or contemplated good faith use of the disputed domain name, nor does the Panel find any such use plausible.

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 <danskofootwear.shop> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: October 1, 2024