

ADMINISTRATIVE PANEL DECISION

Jacques Bermon Webster II aka Travis Scott and LaFlame Enterprises, Inc.
v. domain buyer51

Case No. D2024-0814

1. The Parties

The Complainants are Jacques Bermon Webster II aka Travis Scott and LaFlame Enterprises, Inc., United States of America ("United States"), represented by Kia Kamran P.C., United States.

The Respondent is domain buyer51, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <travismerchandise.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 22, 2024. On February 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on February 28, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on February 28, 2024.

The Center verified that the Complaint together with the amendment to the 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 March 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 22, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on April 4, 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 Complainants are the United States recording artist named Jacques Bermon Webster II, professionally known as Travis Scott, and his company (collectively, the “Complainant”). Travis Scott is internationally known for his music career and for other activities in the entertainment industries since the year 2009. Throughout his career, the Complainant has achieved four number-one hits on the Billboard Hot 100, along with 80 total charted songs. Additionally, the Complainant was nominated for eight Grammy Awards and has won a Billboard Music Award, Latin Grammy Award, MTV Video Music Award, and multiple BET Awards. The Complainant has toured extensively in the United States and internationally and collaborated with several other famous artists during his musical career.

The Complainant has millions of followers in the most relevant social media, such as Twitter (now “X”), Instagram, Facebook, and has an official page on Spotify, which counts more than 60 million monthly listeners.

The Complainant is the owner of several trademark registrations for TRAVIS SCOTT, among which:

- the United States Trademark registration No. 5918744, filed on March 27, 2019 and registered on November 26, 2019, claiming protection for goods and services in classes 9, 16, 25, and 41. This trademark claims a first use in commerce since January 1, 2011 for goods in class 25, and since January 1, 2009, for services in class 41; and
- the International Trademark registration No. 1634937, registered on August 16, 2021, designating various jurisdictions such as Australia, Canada, China, the European Union, the United Kingdom, India, the Republic of Korea, Mexico, New Zealand, and Türkiye, for goods and services in classes 09, 14, 16, 18, 21, 25, and 41.

In addition, the Complainant is the owner of other United States trademark registrations for CACTUS JACK, ASTROWORLD, and LOOK MOM I CAN FLY, all registered prior to the date of registration of the disputed domain name.

The Complainant has used the TRAVIS SCOTT mark in commerce as early as 2009 in connection with entertainment services, live performance, music, and merchandise, such as clothing, jewelry, bags, cups, and paper goods. The Complainant further operates the official website at “www.travisscott.com” where official music and authorized merchandise are released.

The disputed domain name was registered on February 15, 2023. The disputed domain name resolves to a website displaying and purportedly offering for sale clothing items bearing the Complainant’s marks. The website also contains a photo of the Complainant and various information on the Complainant and on the characteristics of the products offered for sale without any accurate or prominent disclaimer. The contact details on the Respondent’s website are: “[...]@travismerchandise.com”.

On July 26, 2023, the Complainant notified the Respondent, the relevant hosting provider, and the Registrar a notice of trademark and copyright infringement and received no reply.

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 includes the entirety of the Complainant's TRAVIS SCOTT mark and is identical and confusingly similar to the Complainant's name and trademark. The mere addition in the disputed domain name of the word "merchandise" does not eliminate any confusion, as adding a generic term to a mark is not sufficient to avoid confusion.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the name "Travis Scott" and is not authorized or licensed by the Complainant to use this name in or as part of any domain name. The Respondent is not an authorized reseller, distributor, or licensee of the Complainant, and the Complainant has not acquiesced in the use of the disputed domain name by the Respondent. Furthermore, the Respondent cannot claim any legitimate, noncommercial, or fair use of the disputed domain name for criticism or as a fan site, because its primary purpose is to engage in commercial use in competition with the Complainant as through the Respondent's website the Respondent is displaying and offering for sale bootleg merchandise bearing the Complainant's name, likeness, and trademarks. Therefore, the Respondent's use of the disputed domain name is intended to divert consumers to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant. The Respondent does not indicate in the relevant website that the Respondent's page is not the official webpage of Travis Scott. The Complainant's image is instead prominently displayed on the home page of the Respondent's website and throughout the website. The home page contains several statements to try to induce consumers into believing that the Respondent is an "official" distributor of the Complainant, such as "Travis Scott Merch - Where you can find the latest and greatest in Travis Scott Merch. We are the one-stop shop for Travis Scott-related things, such as his Astroworld and McDonald's merchandise. We want to offer you the best products like hoodies, t-shirts, sweatpants and tracksuits, etc. So what are you waiting for? Head over to Travis Scott Shop today to join the hype!"

Lastly, the Complainant affirms that the Respondent registered and has been using the disputed domain name in bad faith. The Respondent was aware of the Complainant's trademark TRAVIS SCOTT, whose registration dates back to 2019, when it registered the disputed domain name in 2023. The disputed domain name was registered primarily for disrupting the Complainant's business by selling the counterfeit products bearing the Complainant's trademarks. In choosing the disputed domain name, the Respondent intended to target the value in the Complainant's name and marks and benefit financially. The Respondent is using the disputed domain name to induce the Complainant's consumers into believing that the Respondent's products are associated with or authorized by the Complainant. The Respondent purportedly offers these products at much lower prices than those sold by the Complainant and its distributors. The Complainant contends that these products have not been authorized by the Complainant and are allegedly counterfeit. This further demonstrates that the disputed domain name was blatantly and intentionally registered to create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, which amounts to bad faith.

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. In particular, the Complainant has shown that it owns rights over several registrations for the trademark TRAVIS SCOTT. The disputed domain name is a partial reproduction of the Complainant's trademark in that it includes the word "Travis". In cases 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. [WIPO Overview 3.0](#), section 1.7. In order to evaluate the confusing similarity of the disputed domain name with the Complainant's mark, it is therefore necessary to ascertain whether the word "Travis" is the dominant feature of the Complainant's mark. The Panel notes that the both elements of the Complainant's mark, "Travis" and "Scott", could be used as personal names and surnames. However, because "Travis" is placed before "Scott" in the Complainant's mark, it is likely to be perceived as a personal name, while "Scott" is likely to be perceived as a surname. Generally, the dominant feature of a mark consisting of a personal name and a surname lies in the surname. However, in the instant case, "Travis" is much less common name than "Scott". Moreover, "Travis" is the first part of the Complainant's mark and is the one that primarily catches the consumer's attention and, therefore, will be remembered more clearly than the rest of the sign. Furthermore, although generally the content of the Respondent's website is disregarded when conducting the confusing similarity test under the first element of the Policy, in specific limited circumstances it may support a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.7. In the instant case, as discussed more in detail below, the Respondent's website trades off the Complainant's reputation and it appears that the Respondent selected the disputed domain name precisely because of its confusing similarity with the Complainant's mark. Lastly, the Panel notes that although the addition of other terms here, "merchandise", may bear on assessment of the second and third elements, 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.

In light of the above, 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.

In particular, the Panel notes that the Respondent does not have any relationship with the Complainant and the Complainant did not authorize the Respondent to make use of the Complainant's mark in any manner whatsoever, including as part of the disputed domain name. The Respondent does not own any trademark coinciding with the disputed domain name and nothing in the case file induces to believe that the Complainant is commonly known by the disputed domain name. The fact that the Respondent is impersonating the Complainant in the way described below, does not mean that the Respondent is commonly known by the disputed domain name.

The Respondent does not appear to have used the disputed domain name in connection with a bona fide offering of goods or services. The disputed domain name resolves to a website where the Complainant's trademark TRAVIS SCOTT is prominently displayed and where the Respondent purportedly offers for sale various products bearing a wide range of the Complainant's marks, including ASTROWORLD, CACTUS JACK, and LOOK MOM I CAN FLY. Rather than indicating that the Respondent has no link with the Complainant, the Respondent's website contains promotional statements referring to the Complainant and his activity both as a singer and as a manufacturer and seller of clothing merchandise. These statements are highly misleading and induce visitors to believe that they have reached the official website for the Complainant's merchandise, or one of the websites of the Complainant's official distributors. Through the disputed domain name and the corresponding website, the Respondent is therefore impersonating the Complainant and targeting its marks to unduly profit from the Complainant's goodwill and reputation for its own commercial gain.

Panels have held that the use of a domain name for illegal activity such as the one described above can never confer rights or legitimate interests on a respondent. In the Panel's view, the impersonation of the Complainant cannot confer rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, the Panel finds that 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 registered the disputed domain name respectively 14 and 12 years after the first use in commerce of the Complainant's mark in classes 41 and 25. The disputed domain name reproduces the most distinctive part of the Complainant's mark followed by the term "merchandise". This term is strictly connected with the Complainant's activity, given that the Complainant is not only a famous rapper, but also the owner of various trademarks, which he regularly uses to distinguish articles of clothing for merchandise purposes. The Complainant has gained an international fame in the music field and its TRAVIS SCOTT mark should be considered renown in this field too. The disputed domain name resolves to a website promoting the sale of the Complainant's merchandise under a wide range of the Complainant's marks. The Respondent's website does not contain any accurate or prominent disclaimer to explain the lack of association with the Complainant. On the contrary, the Respondent contains several promotional statements and various information on who is the Complainant and how is the quality of his branded merchandise. The Respondent also illustrates the cooperation that the Complainant has established with other renowned players in the market. The contact details on the Respondent's website, "[...].@travismerchandise.com" show that the Respondent set up Mail Exchange ("MX") records for the disputed domain name for communication purposes.

It is therefore clear that at the time of the registration of the disputed domain name, the Respondent was very well aware of the Complainant and of its business and trademarks, including the TRAVIS SCOTT mark. The Respondent's use of the disputed domain name reinforces the Panel's belief. The Respondent is using the disputed domain name to capitalize on the Complainant and on its various marks, including the TRAVIS SCOTT mark, for potential phishing purposes. The Respondent has in fact been using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Having reviewed the record, the Panel notes that the Respondent used the disputed domain name to resolve to a website purportedly offering for sale counterfeit products bearing the Complainant's trademark. Panels have held that the use of a domain name for illegal activity as applicable to this case such as the sale of alleged counterfeit copies of the Complainant's products at discounted prices constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Moreover, the Respondent failed to reply to the Complainant's notice of trademark and copyright infringement letter sent before the filing of the Complaint. This lack of cooperation from the Respondent is further evidence of the Respondent's bad faith.

In light of the circumstances reported above, 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 <travismerchandise.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: April 14, 2024