

## **ADMINISTRATIVE PANEL DECISION**

Jacques Bermon Webster II also known as Travis Scott, LaFlame Enterprises, Inc., and Cactus Jack Publishing, LLC, v. Muhammad Adnan, Kaamy Group  
Case No. D2022-3855

### **1. The Parties**

The Complainants are Jacques Bermon Webster II also known as Travis Scott, United States of America (“United States”), LaFlame Enterprises, Inc., United States, and Cactus Jack Publishing, LLC, United States, represented by Kia Kamran P.C., United States (the “Complainant”).

The Respondent is Muhammad Adnan, Kaamy Group, Pakistan.

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

The disputed domain names <cactusjackclothing.com> and <travisscottshop.net> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2022. On October 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 15, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 October 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 9, 2022.

The Center appointed Knud Wallberg as the sole panelist in this matter on November 15, 2022. 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 the internationally famous recording artist Travis Scott also known with the nick name Cactus Jack, and has established worldwide fame and value in his name, nicknames and likeness in conjunction with his music career, as well as numerous other activities in the entertainment industries since the year 2009.

The Complainant has used TRAVIS SCOTT as trademark since the year 2009 in connection with entertainment services, live performance, music and merchandise (such as clothing, jewelry, bags, cups, paper goods). The Complainant further operates his official website "www.travisscott.com" where official music and authorized merchandise are released.

The Complainant has used CACTUS JACK as trademark since the year 2017 in connection with entertainment services, live performance, music and merchandise such as clothing and jewelry. Additionally, the Complainant founded his own record label under the name "Cactus Jack Records" in 2017.

The Complainant owns several registrations of the mark TRAVIS SCOTT including United States Trademark Registration No. 5,918,744, with the registration date November 26, 2019, for goods and services in international classes 9, 16, 25 and 41.

The Complainant also owns several registrations of the mark CACTUS JACK including United States Trademark Registration No. 5,747,382, with the registration date May 07, 2019, for goods and services in international classes 9 and 41 and United States Trademark Registration No. 5,768,134, with the registration date June 04, 2019, for goods and services in international class 25

Both of the disputed domain names were registered on August 10, 2021, and they both resolve to active websites that purports to offer various products bearing the TRAVIS SCOTT and CACTUS JACK trademarks as well as products bearing other trademarks.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name <travisscottshop.net> includes the entirety of the Complainant's TRAVIS SCOTT mark, while the disputed domain name <cactusjackclothing.com> includes the entirety of the Complainant's CACTUS JACK mark. The mere addition in the disputed domain name <travisscottshop.net> of the word "shop" and in the disputed domain name <cactusjackclothing.com> of the word "clothing" does not eliminate any confusion, as it is well settled that adding a term to a mark is not sufficient to avoid confusion.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names pursuant to Policy, paragraph 4(a)(ii). The Respondent is not commonly known by the name "TRAVIS SCOTT" or "CACTUS JACK", and it is not authorized or licensed by the Complainant to use the marks TRAVIS SCOTT and CACTUS JACK in or as part of any trademark or domain name. Furthermore, the Respondent cannot claim any legitimate, noncommercial, or fair use of the disputed domain names, for criticism or as a fan site, because its primary purpose is to engage in commercial use in competition with the Complainant and primarily engage in the selling of bootleg merchandise on the websites connected to the disputed domain names. The Respondent is thus not an authorized reseller, distributor, or

licensee of the Complainant, and the Complainant has not acquiesced in the use of the disputed domain names by the Respondent.

The Complainant finally contends that the Respondent registered and used the disputed domain names in bad faith pursuant to Policy, paragraphs 4(a)(iii). The Respondent registered the disputed domain names on August 10, 2021. In choosing the disputed domain names, the Respondent thus intends to target the value in the Complainant's name and marks and to benefit financially. The use of the disputed domain names is clearly intended to misdirect consumers to the Respondent's website and inducing them into believing that the Respondent's products are associated with or authorized by the Complainant. The infringing products are offered at much lower prices than those which are sold by the Complainant and its distributors. This further demonstrates that the disputed domain names were intentionally registered to create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website and thereby disrupting the Complainant's business.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary procedural question: consolidation of Complainants**

The Complainant Jacques Webster (known as Travis Scott) owns two companies LaFlame Enterprises Inc. and Cactus Jack Publishing, LLC. Both companies are the trademarks owners of TRAVIS SCOTT and CACTUS JACK. Therefore, Complainants have a common grievance against the Respondent and have a common legal interest in the trademark rights that are affected by the Respondent's conduct. This consolidation is equitable and procedurally efficient. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.

### **6.2 On the merits**

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the disputed domain names registered by the respondent are identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain names have been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

### **A. Identical or Confusingly Similar**

The Panel finds that the disputed domain name <travisscottshop.net> is confusingly similar (in the sense of the Policy) to the Complainant's registered trademark TRAVIS SCOTT, since the disputed domain name contains this mark in its entirety. The addition of the term "shop" does not prevent a finding of confusing

similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The generic Top-Level-Domain (“gTLD”) “.net” is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the disputed domain name <cactusjackclothing.com> is confusingly similar (in the sense of the Policy) to the Complainant’s registered trademark CACTUS JACK, since the disputed domain name contains this mark in its entirety. The addition of the term “clothing” does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#). The gTLD “.com” is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the both disputed domain names.

## **B. Rights or Legitimate Interests**

It is obvious from the Complaint, that the Complainant has not licensed or otherwise permitted the Respondent to use the trademarks TRAVIS SCOTT or CACTUS JACK.

Further, given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent has not rebutted this. Furthermore, the way the Respondent has used the confusingly similar disputed domain names for websites that appears to offer *inter alia* counterfeit TRAVIS SCOTT and CACTUS JACK products, supports a finding that the Respondent lacks rights or legitimate interests in the disputed domain names.

Consequently, the Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are also fulfilled.

## **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of a disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances, which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed 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 respondent’s documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding disputed domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent’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 respondent’s website or location or of a product or service on the respondent’s website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain names have been registered and are being used in bad faith.

Given the circumstances of the case, including the distinctive nature of the Complainant's trademarks TRAVIS SCOTT and CACTUS JACK and the way that the disputed domain names have been and are still used, it is obvious to the Panel in the current circumstances that the Respondent registered the disputed domain names in bad faith.

The disputed domain names have been and are used for websites, which clearly gives the Internet users the impression that the websites offer genuine TRAVIS SCOTT and CACTUS JACK products as well as other branded products. However, the Complainant has furnished information that clearly indicates that the goods that are offered for sale on the websites at the disputed domain names may well be counterfeited TRAVIS SCOTT and CACTUS JACK products. The Panel therefore finds that there can be no doubt that the disputed domain names have been used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the [Respondent's] web site or other on-line location, by creating a likelihood of confusion with the [Complainant's] mark as to the source, sponsorship, affiliation, or endorsement of the [Respondent's] web site".

Noting that the disputed domain names incorporate the Complainant's distinctive trademarks TRAVIS SCOTT and CACTUS JACK respectively; that the Respondent has not replied to the Complainant's contentions; and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain names and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## **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 <cactusjackclothing.com> and <travisscottshop.net> be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: December 6, 2022