

## **ADMINISTRATIVE PANEL DECISION**

Jacques Bermon Webster II also known as Travis Scott and LaFlame Enterprises, Inc. v. Nguyen Tuan Anh  
Case No. D2022-3786

### **1. The Parties**

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

The Respondent is Nguyen Tuan Anh, Viet Nam.

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

The disputed domain name <shop-travisscott.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2022. On October 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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.

On October 19, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On October 20, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Japanese of the Complaint, and the proceedings commenced on October 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2022.

The Center appointed Douglas Clark as the sole panelist in this matter on November 23, 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 Jacques Bermon Webster II also known as Travis Scott is a recording artist operating through his company the Complainant LaFlame Enterprises, Inc. (collectively the “Complainant”) under the name TRAVIS SCOTT in music and other activities in the entertainment industry. The Complainant has used TRAVIS SCOTT in connection with entertainment services, live performance, music, and merchandise (such as clothing, jewelry, bags, cups, and paper goods), and operates his website at “www.travisscott.com” to release his official music and authorized merchandise. Mr Scott claims common law rights to the name TRAVIS SCOTT.

The Complainant, through LaFlame Enterprises Inc., is the owner of several trade mark registrations for TRAVIS SCOTT, including the following:

Trade Mark	Trade Mark No.	Registration Date	Class	Jurisdiction
TRAVIS SCOTT	5918744	November 26, 2019	9, 16, 25, 41	United States
TRAVIS SCOTT	6366019	May 25, 2021	14	United States
TRAVIS SCOTT	6901495	November 15, 2022	18, 21	United States
TRAVIS SCOTT	1634937	August 16, 2021	9, 14, 16, 18, 21, 25, 41	International (Australia, Canada, China, European Union, United Kingdom, India, Republic of Korea, Mexico, New Zealand, and Türkiye)

(With regard to registration no. 6901495, at the time of filing of the Complaint this mark was pending under number 88359861 but matured to registration on November 15, 2022.)

The disputed domain name <shop-travisscott.com> was registered on April 1, 2022. At the date of this Complaint, the disputed domain name resolved to a website selling counterfeit merchandise of the Complainant’s goods.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that:

(a) The disputed domain name is confusingly similar to its trade mark TRAVIS SCOTT. The disputed domain name is almost identical to the Complainant’s TRAVIS SCOTT trade mark along with the addition of the word “shop”. The use of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain name is typically irrelevant to the consideration of confusing similarity;

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Respondent has never been granted any authorization or license to use the Complainant’s trade mark. The Respondent is not commonly known by the disputed

domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name; and

(c) The disputed domain name was registered and is being used in bad faith. The website under the disputed domain name reproduced the Complainant's trade mark and sells counterfeit merchandise of the Complainant's goods. The Respondent is seeking to confuse the Complainant's actual or potential customers and suppliers into believing that the Respondent is the Complainant, or is otherwise associated or affiliated with the Complainant. The Respondent is deliberately creating confusion with the Complainant in order to give credibility to its scams.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issues**

#### **Language of the proceeding**

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In this case, the language of the Registration Agreement for the disputed domain name is Japanese. There is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond as to the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the following grounds:

- (i) The disputed domain name is in English; and
- (ii) The website under the disputed domain name is in English.

In accordance with paragraph 11(a) of the Rules and taking into consideration paragraphs 10(b) and (c) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Japanese;
- the Respondent has not commented on the language of the proceeding;
- the website the disputed domain name resolves to is entirely in English; and
- an order for the translation of the Complaint will result in significant expenses for the Complainant and an unwarranted delay in the proceeding.

Further, this Panel decided in *Zappos.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. [D2008-1191](#), that a respondent's failure to respond to a preliminary determination by the Center as to the language of the proceeding "should, in general, be a strong factor to allow the Panel to decide to proceed in favour of the language of the Complaint".

## Consolidation of Complainants

The Complainant Jacques Webster (known as Travis Scott) owns the company LaFlame Enterprises Inc which is the trademark owner of TRAVIS SCOTT. Therefore, the 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 Substantive Issues

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Panel finds that the disputed domain name <shop-travisscott.com> is confusingly similar to the Complainant's trade mark. The disputed domain name reproduces the TRAVIS SCOTT trade mark in its entirety along with the word "shop". The gTLD ".com" is generally disregarded when considering the first element. (See section 11.1, [WIPO Overview 3.0](#)).

The Panel notes that the Complainant did not rely on any registered trade marks in Japan where the Registrar is located or in Viet Nam where the Respondent appears to be located. The ownership of a trade mark is generally considered to be a threshold standing issue. The location of the trade mark, its date of registration (or first use) and the goods and/or services for which it is registered, are all irrelevant for the purpose of finding rights in a trade mark under the first element of the UDRP. These factors may however bear on a panel's further substantive determination under the second and third elements. (See section 1.1.2 of [WIPO Overview 3.0](#)).

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

### B. Rights or Legitimate Interests

The Complainant asserts that the Respondent has no business with and is in no way affiliated with the Complainant. The Respondent is not authorized nor licensed to use the Complainant's TRAVIS SCOTT trade mark or to apply for registration of the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name or the name "Travis Scott".

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

The Complainant has therefore satisfied the second element under paragraph 4(a) of the Policy.

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

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant has registered the TRAVIS SCOTT trade mark. The TRAVIS SCOTT trade mark is used by the Complainant to conduct its business and the Complainant has used the trade mark for over 3 years. The website the disputed domain name resolves to sells apparently counterfeit goods of the Complainant's merchandise, which is clearly in bad faith. The Panel is satisfied that the Respondent was aware of the Complainant and its TRAVIS SCOTT trade mark when he or she registered the disputed domain name. It appears to the Panel that the Respondent has registered the disputed domain name to attract Internet users to the website at the disputed domain name for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. The Complainant has made multiple attempts to the Respondent to shut down its website and its activities, to which the Respondent has ignored. By offering alleged counterfeit goods of the Complainant's on the Respondent's website, the Respondent is deliberately creating confusion with the Complainant in order to give credibility to its scams.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under paragraph 4(a) 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, <shop-travisscott.com>, be transferred to the Complainant.

*/Douglas Clark/*

**Douglas Clark**

Sole Panelist

Date: December 9, 2022