

ADMINISTRATIVE PANEL DECISION

Jacques Bermon Webster II, also known as Travis Scott, LaFlame Enterprises, Inc. v. Uzair Hassan
Case No. D2022-4119

1. The Parties

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

The Respondent is Uzair Hassan, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <astroworldhoodies.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 November 1, 2022. On November 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 2, 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 November 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2022.

The Center appointed Theda König Horowicz as the sole panelist in this matter on December 9, 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 Jacques Bermon Webster II, professionally known as Travis Scott, and his entity LaFlame Enterprises, Inc., referred to collectively as the Complainant.

The Complainant is the internationally famous recording artist Travis Scott also known with the nickname 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.

LaFlame Enterprises, Inc. is the owner of the trademark ASTROWORLD registered in the United States and worldwide.

In the United States, the Complainant notably owns the following trademark registrations:

- United States Registration No. 5701553, registered on March 19, 2019 and
- United States Registration No. 5654691, registered on January 15, 2019.

Both aforementioned registrations are covering goods in International Class 25 including “clothing, namely, t-shirts, shirts, long-sleeved shirts, polo shirts, hooded shirts, sweatshirts, hooded sweatshirts”.

The disputed domain name was registered on March 5, 2022, and is linked to a website selling merchandise bearing the Complainant's trademarks without authorization of any kind. Moreover, the website bears the Complainant's name, likeness and trademarks, including the ASTROWORLD trademark without the Complainant's authorization either.

5. Parties' Contentions

A. Complainant

The Complainant alleges to be the owner of United States trademark registrations for ASTROWORLD. The Complainant submits that the disputed domain name includes the entirety of Complainant's ASTROWORLD mark. Therefore, the disputed domain name is identical or confusingly similar to Complainant's registered trademarks. Further, the mere addition in the disputed domain name of the generic word “hoodies” does not eliminate any confusion. Finally, the presence of generic Top-Level Domains (“gTLDs”) (e.g., “.com”, “.info”, “.net”, “.org”) are typically irrelevant to the consideration of confusing similarity between a trademark and a domain name.

The Complainant further submits that the Respondent is not commonly known by the term ASTROWORLD and it is not authorized or licensed by Complainant to use it 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 name, for criticism or as a fan site, because its primary purpose is to engage in commercial use in competition with Complainant and engage in the selling of bootleg merchandise on the website connected to the disputed domain name bearing Complainant's name, likeness, and trademarks. Therefore, Respondent's use of the disputed domain name is undoubtedly intended to divert consumers to Respondent's website for Respondent's commercial gain by creating a likelihood of confusion with the Complainant. Indeed, the Respondent has clearly chosen and used the disputed domain name to misleadingly attract customers to its website for the purpose of selling counterfeit merchandise of the Complainant's goods. In addition, the Respondent fails to provide any indication to the consumer that Respondent's website is not the official webpage of the Complainant, diminishing the probability of fair use. To the contrary, the Respondent makes several unauthorized statements of affiliation with the Complainant on the website connected to the disputed domain name. To summarize, the Respondent is not an authorized licensee or seller of Complainant's merchandise and actually the Respondent sells goods illicitly bearing Complainant's trademarks.

Finally, the Complainant submits that its ASTROWORLD trademark is registered in the United States since 2019, and is also registered internationally. Therefore, the Respondent has deliberately and in bad faith chosen the well-known trademark ASTROWORLD to be included in the disputed domain name. Furthermore, the Respondent registered the disputed domain name primarily for the purpose of disrupting Complainant's business by selling counterfeit products notably branded as ASTROWORLD. In choosing the disputed domain name, the Respondent intended to target the value in the Complainant's name and marks and benefit financially. The use of the disputed domain name is clearly intended to misdirect consumers to Respondent's website and inducing them into believing that the Respondent's counterfeit products are associated with or authorized by the Complainant. The infringing products are indeed offered at much lower prices than those which are sold by the Complainant and its distributors. 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 his website which constitutes bad faith use under the Policy.

B. Respondent

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

6. Discussion and Findings

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 domain name registered by the respondent is 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 domain name; and
- (iii) that the domain name has 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 Complainant has shown to have obtained trademark rights in ASTROWORLD in the United States.

According to section 1.7, of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or 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.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark ASTROWORLD since it contains this mark in entirety. The addition of the term "hoodies" in the disputed domain name 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”](#)).

Furthermore, the gTLD “.com” is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in the use of a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services;
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1, [WIPO Overview 3.0](#).

The Complainant made sufficient statements in order to demonstrate that the Respondent would have no rights or legitimate interests in the disputed domain name.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademark. There is no evidence showing that the Respondent would be commonly known by the disputed domain name or that a legitimate business would be run by the Respondent under the disputed domain name. To the contrary, the Complainant has shown that the disputed domain name is linked to a website unduly using his name, image, and trademarks, including ASTROWORLD.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant’s *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in these proceedings.

As already stated before, nothing is contained in the case file which would show that the disputed domain name has been legitimately used, either noncommercially or fairly, by the Respondent or that the Respondent would have any rights or legitimate interests in the disputed domain name. Rather, it appears that the disputed domain name has been illegitimately used to offer counterfeit goods bearing the Complainant’s trademark. Such use can never confer rights or legitimate interests. See section 2.13 of the [WIPO Overview 3.0](#). Moreover, even if the Respondent’s goods are in fact legitimate products of the Complainant being offered for resale, such use would not be fair or give rise to rights or legitimate interests in this case, noting in particular that the Respondent’s website not only fails to explain its lack of relationship with the Complainant, but actively seeks to suggest a false affiliation or association with the Complainant.

Furthermore, the disputed domain name containing the trademark ASTROWORLD in its entirety with the term “shop” carries a risk of implied affiliation.

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

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the 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 holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the 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 holder's documented out-of-pocket costs directly related to the domain name; or

(ii) the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or

(iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder'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 holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name was registered and is being used in bad faith.

Given the circumstances of the case, including the distinctive nature of the Complainant's trademark ASTROWORLD, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name he chose could attract Internet users in a manner that is likely to create confusion.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name resolves to a website using, without authorization, the name and image of the Complainant Travis Scott who is a well-known artist. Furthermore, the website at issue sells goods unduly bearing the trademarks of the Complainant (including ASTROWORLD), that appear to be counterfeit goods, notably hoodies which are expressly covered by Complainant's trademark. Finally, the inclusion of the term "hoodies" in the disputed domain name actually reinforces the impression that the website would be an official website, particularly as it also contains statements such as "We offer hoodies, sweatshirts, t-shirts, and sweatpants under our Travis Scott official merch line".

All these facts demonstrate that the disputed domain name is being used in bad faith.

The silence of the Respondent in these proceedings is an additional evidence of bad faith in these circumstances.

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain name.

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 <astroworldhoodies.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: December 28, 2022