

## **ADMINISTRATIVE PANEL DECISION**

Jacques Bermon Webster II, also known as Travis Scott, and LaFlame Enterprises, Inc. v. Nano Techan  
Case No. D2022-4121

### **1. The Parties**

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

The Respondent is Nano Techan, Nigeria.

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

The disputed domain name, <astroworldmerchandise.shop>, 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 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 28, 2022.

The Center appointed David Stone as the sole panelist in this matter on December 12, 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 Complainants are an individual, Jacques Bermon Webster II, and his business entity LaFlame Enterprises, Inc, referred to collectively as the Complainant. Mr. Webster is an award-winning US recording artist who performs using the name Travis Scott. He has toured internationally and has a significant presence on social media, for example Twitter, where his account under the name Travis Scott has around 11 million followers. He has an account under the name Travis Scott on the music streaming service Spotify, where he has more than 45 million monthly listeners.

The Complainant owns numerous trade marks, including the following (the Marks).

The term ASTROWORLD, registered with

- United States Trademark registration number 5701553 registered on March 19, 2019 in international class 41;
- Chinese Trademark registration number 60387998 registered on April 28, 2022 in international class 9;
- Chinese Trademark registration number 60372651 registered on April 28, 2022 in international class 14;
- Chinese Trademark registration number 60368274 registered on April 28, 2022 in international class 16;
- Chinese Trademark registration number 60371908 registered on April 28, 2022 in international class 18;
- Chinese Trademark registration number 60391303 registered on April 28, 2022 in international class 21;
- Chinese Trademark registration number 60385290A registered on June 14, 2022 in international class 25;
- Chinese Trademark registration number 60372233 registered on April 28, 2022 in international class 41; and
- European Union Trade Mark registration number 018532715 registered on January 6, 2022 in international classes 9, 14, 18, 25, and 41.

The device , registered with

- United States Trademark registration number 5769755 registered on June 4, 2019 in international class 16;
- United States Trademark registration number 6768432 registered on June 21, 2022 in international class 21;
- United States Trademark registration number 5930321 registered on December 10, 2019 in international class 25;
- United States Trademark registration number 5769756 registered on June 4, 2019 in international class 34; and
- United States Trademark registration number 5964774 registered on January 21, 2020 in international class 41.

The device **ASTROWORLD**, registered with

- United States Trademark registration number 6821345 registered on August 16, 2022 in international class 16;
- United States Trademark registration number 6102904 registered on July 14, 2020 in international class 21;

- United States Trademark registration number 5930324 registered on December 10, 2019 in international class 25;
- United States Trademark registration number 5930325 registered on December 10, 2019 in international class 41; and
- European Union Trade Mark registration number 018532194 registered on January 6, 2022 in international classes 9, 14, 18, 25, and 41.

The Complainant has been using its ASTROWORLD mark in commerce since 2018. It operates a website at “www.travisscott.com”, where it sells music and merchandise such as clothing and jewelry under the sign ASTROWORLD.

The disputed domain name was registered on September 24, 2022, and at the time of filing the Complaint, the dispute domain name resolves to a website selling what appears to be counterfeit merchandise of the Complainant’s goods.

## **5. Parties’ Contentions**

### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s ASTROWORLD marks, and states that the presence in the disputed domain name of the word “merchandise” does not eliminate any confusion. Furthermore, the generic top-level domain (“gTLD”), here “.shop”, is typically considered irrelevant in the assessment of similarity between a trade mark and a domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the name ASTROWORLD, and has not been authorized by the Complainant to use this term, or any of the Complainant’s marks, for any purpose. The Respondent has nevertheless used the disputed domain name to set up a website where it sells counterfeit goods bearing the ASTROWORLD mark, among others owned by the Complainant. On this website, the Respondent states falsely that it is “the Official Astroworld Store”. This does not constitute legitimate, noncommercial or fair use of the disputed domain name, such as might confer rights or legitimate interests on the Respondent.

The Complainant contends that the disputed domain name was registered and is being used in bad faith, on the basis that the Respondent knew of the Complainant and its trade marks and deliberately targeted the Complainant to benefit from confusion resulting from the similarity between the disputed domain name and the Complainant’s marks. The ASTROWORLD marks are well known, and so their use in the disputed domain name is alone enough to demonstrate bad faith. This is confirmed by the use being made of the disputed domain name, namely the sale of counterfeit goods.

### **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to succeed:

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

(ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) that the disputed domain name has been registered and is being used in bad faith.

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

On the evidence provided by the Complainant, the Panel is satisfied that the Complainant has rights in the ASTROWORLD. In assessing the identity or confusing similarity between the disputed domain name and the ASTROWORLD marks it is typically permissible to ignore the gTLD. The disputed domain name then contains the term ASTROWORLD in its entirety and differs from it only by the addition of the term “merchandise”.

The Panel therefore finds that the disputed domain name is confusingly similar to the ASTROWORLD marks, and concludes that the condition in paragraph 4(a)(i) of the Policy is satisfied.

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

Paragraph 4(c) of the Policy sets out the criteria that determine whether a domain name registrant has rights or legitimate interests in a domain name:

(i) before any notice to the respondent of the dispute, the respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business or other organisation) has been commonly known by the disputed domain name, even if the respondent has acquired no trade mark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain misleadingly to divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant makes out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent has provided no evidence to contradict it.

On the facts and contentions before the Panel, the Respondent is not commonly known by the disputed domain name, is not authorised to use the Marks and cannot claim any right or interest in them by virtue of prior registration.

The disputed domain name containing the trademark ASTROWORLD in its entirety with the term “merchandise” carries a risk of implied affiliation. Internet users seeing “astroworld” and “merchandise” together in the disputed domain name are likely to assume that the associated website is a genuine source of the Complainant’s goods.

The evidences on record provided by the Complainant, satisfy the Panel that the Respondent used the website to sell merchandise bearing one or more of the Marks, and that the Respondent also explicitly claimed that the associated website was the “officially licensed Astroworld Store” and was a source of “officially licensed items”. The website also contained text clearly designed to create the impression of an association between the website and the Complainant:

“About Astroworld Shop – Official Travis Scott Merchandise

Are you a fan of Travis Scott? You love the Astroworld album. Looking for the perfect Astroworld item? And that’s why you’re in our store, look no further than the Official Astroworld Store!”

The Respondent has provided no evidence of having any licence to sell merchandise branded using any of the Marks, nor of having any association whatsoever with the Complainant. In particular, the Respondent has not contended that it is making *bona fide* use of the website to resell the Complainant's genuine branded goods. The Panel concludes that the Respondent uses the website to sell what appears to be counterfeit goods, and exploits the confusing similarity between the disputed domain name and the ASTROWORLD mark to do so. There can be no legitimate interest in the sale of counterfeit goods (*Mattel, Inc. v. Magic 8 ball factory*, WIPO Case No. [D2013-0058](#)), and so the Panel concludes 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. Therefore, the condition in paragraph 4(a)(ii) of the Policy is satisfied.

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

Paragraph 4(b) of the Policy sets out the non-exhaustive criteria for bad faith. Generally, for the purposes of the Policy, bad faith constitutes registration and use of a domain name in order to:

- (i) sell, rent or transfer the domain name to the trade mark owner (or a competitor thereof) for a profit;
- (ii) prevent the trade mark owner from registering its trade mark in a domain name, provided that the respondent is engaged in a pattern of such conduct;
- (iii) disrupt the business of a competitor; or
- (iv) divert Internet traffic for commercial gain.

As of the date of this decision, the disputed domain name does not resolve to a website. However, as discussed above, the Complainant has provided unchallenged evidence that the disputed domain name was used to sell counterfeit goods bearing one or more of the Marks. This is clear evidence that the Respondent was aware of the Complainant and its business. The Respondent has provided no explanation of its behaviour, and so the Panel concludes that the Respondent devised and registered the disputed domain name so as to create a false and misleading impression of association between the disputed domain name and the Complainant. The Respondent's objective was to disrupt the Complainant's business and divert Internet traffic for the Respondent's commercial gain. The registration was therefore in bad faith. The Respondent's subsequent use of the disputed domain name to sell what appears to be counterfeit goods branded using the Marks clearly amounts to bad-faith use, for the same reason (see, for example, *LEGO Juris A/S v. Whoisguard Protected, Whoisguard, Inc. / Giovanni Bonny*, WIPO Case No. [D2017-0143](#)).

The condition in paragraph 4(a)(iii) of the Policy is therefore satisfied.

## **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, <astroworldmerchandise.shop>, be transferred to the Complainant.

*/David Stone/*

**David Stone**

Sole Panelist

Date: December 22, 2022