

ADMINISTRATIVE PANEL DECISION

Jacques Bermon Webster II also known as Travis Scott, LaFlame Enterprises, Inc v. Marco Russo
Case No. D2022-3891

1. The Parties

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

The Respondent is Marco Russo, Italy.

2. The Domain Name and Registrar

The disputed domain name <travis-scott.com> is registered with Register SPA (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 18, 2022. On October 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 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 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 10, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on November 16, 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 Jacques Bermon Webster II (known as Travis Scott, the internationally famous recording artist), and his entity LaFlame Enterprises, Inc. (mutually referred to as the "Complainant"). The Complainant has established worldwide fame and value to the name Travis Scott and likeness in conjunction with his music career, as well as other activities in the entertainment industries since the year 2009.

The Complainant has used TRAVIS SCOTT in commerce as early as the year 2009 in connection with entertainment services, live performance, music and merchandise and owns several trademark registrations, including the following:

-United States Trademark registration No. 5918744, for TRAVIS SCOTT, registered on November 26, 2019 and;

-International Trademark registration No. 1634937, for TRAVIS SCOTT, registered on August 16, 2021.

The Complainant is the owner of the domain name <travisscott.com>, which corresponds to its main website.

The disputed domain name was created on November 29, 2019 and resolves to a website identical to the Complainant's official website purportedly offering counterfeit products for sale.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name incorporates its trademark and name with the addition of a hyphen in between, thereby making it confusingly similar to the Complainant's trademarks. The Complainant explains that the inclusion of the term "shop" only serves to increase the confusing similarity, since it indicates the Complainant's business.

The Complainant informs that, since 2021 it has attempted to solve this matter by sending letters to the Respondent, without success.

The Complainant says that the Respondent does not use the disputed domain name in connection with a *bona fide* offering of goods or services, it is not commonly known by the disputed domain name, it has not acquired any trademark rights related to the disputed domain name and is taking advantage of the confusing similarity between the disputed domain name and the Complainant's trademark.

According to the Complainant, the Respondent has used the disputed domain name to misleadingly attract customers to its website for the purpose of selling counterfeit merchandise of the Complainant's goods and concludes that there can be no legitimate interest in such behavior.

In addition, the Complainant argues that the Respondent fails to provide any indication to the consumer that the Respondent's page is not the official webpage of Travis Scott, diminishing the probability of fair use. On the contrary, the Complainant shows evidence that the website displays "Copyright © 2022, Travis Scott. All Rights Reserved." and the sections on the website "Shows", "Music" and "Videos" are identical to the Complainant's official website.

The Complainant mentions that an evidence of the confusion that the Respondent's abusive use of the disputed domain name is causing, is a screenshot from the website Reddit where a confused consumer is inquiring about the legitimacy of the Respondent's website, which confirms that the Respondent registered and used the disputed domain name in bad faith.

Finally, 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

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 evidence presented in the Complaint demonstrates that the Complainant is the owner of trademark registrations for TRAVIS SCOTT in different jurisdictions.

The disputed domain name is confusingly similar to the Complainant's trademark TRAVIS SCOTT. Indeed, the addition of the hyphen or the generic Top-Level-Domain ".shop" in the disputed domain name does not prevent a finding of confusing similarity with the Complainant's trademarks.

Also, as numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is identical or confusingly similar to the Complainant's trademarks.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register a domain name containing the trademark TRAVIS SCOTT.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is also no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made 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. Instead, the Complainant showed evidence that the Respondent is using the disputed domain name to create a likelihood of confusion with the Complainant by offering counterfeit products for sale, aiming at an undue profit. Indeed, the use of a domain name for such illegal activity can never confer rights or legitimate interests on a respondent. See section 2.13.1 of the [WIPO Overview 3.0](#).

The Panel finds that the use of the disputed domain name, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

Furthermore, in view of the nature of the disputed domain name (the Complainant's trademark and name with merely a hyphen in between and the addition of the generic Top-Level-Domain ".shop"), it carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark TRAVIS SCOTT is registered by the Complainant and has been used for many years. Also, the Complainant is using its domain name <travisscott.com>, which resolves to its official website.

The Complainant's TRAVIS SCOTT mark is recognized in its segment and one of the ways the Complainant advertises/presents its services and products is certainly through its website. Due to the Complainant's international fame, it is clear to the Panel that the Respondent knew about the Complainant's activities and its trademark rights at the time of the registration of the disputed domain name.

The disputed domain name, that entirely reproduces the mark TRAVIS SCOTT adding the generic Top-Level-Domain ".shop" is undoubtedly suggestive of the Respondent's bad faith. It does not seem to make any sense for the Respondent to register the disputed domain name, except to mislead potential clients of the Complainant. And this is confirmed with the evidence presented showing that the Respondent uses the disputed domain name in connection with a website visually identical to the Complainant's official website offering counterfeit goods displaying the Complainant's mark, for sale.

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that the disputed domain name belongs to or is associated with the Complainant.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. In these circumstances, and as found in the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "[t]he failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name was registered and is being used in bad faith.

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, <travis-scott.com>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: November 29, 2022