

ADMINISTRATIVE PANEL DECISION

Jacques Bermon Webster II aka Travis Scott and LaFlame Enterprises, Inc.
v. Mian Mian
Case No. D2024-0813

1. The Parties

The Complainants are Jacques Bermon Webster II aka Travis Scott (the “First Complainant”) and LaFlame Enterprises, Inc. (the “Second Complainant”), United States of America (“United States”), represented by Kia Kamran P.C., United States.

The Respondent is Mian Mian, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <scottmerch.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 February 22, 2024. On February 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Privacy service) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 28, 2024.

The Center verified that the Complaint together with the amendment to 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 March 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2024.

The Center appointed Linda Chang as the sole panelist in this matter on April 2, 2024. 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 First Complainant is a famous recording artist, and has achieved four number-one hits on the Billboard Hot 100, and won a Billboard Music Award, Latin Grammy Award, and MTV Video Music Award.

The Second Complainant is the owner of the following, amongst others, TRAVIS SCOTT trademark registrations:

- (I) United States Trademark Registration No. 5918744, registered on November 26, 2019, in Classes 9, 16, 25, and 41;
- (II) United States Trademark Registration No. 6366019, registered on May 25, 2021, in Class 14;
- (III) United States Trademark Registration No. 6901495, registered on November 15, 2022, in Classes 18 and 21; and
- (IV) International Trademark Registration No. 1634937, registered on August 16, 2021, in Classes 9, 14, 16, 18, 21, 25, and 41, designating, inter alia, United Kingdom.

The disputed domain name was registered on November 20, 2022. Presently, it does not resolve to an active webpage but at the time of the filing of the Complaint, it resolved to an online shopping website providing TRAVIS SCOTT-branded products.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name includes the entirety of the TRAVIS SCOTT trademark and is identical or confusingly similar to the Complainants' trademarks.

The Complainants further contend that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainants finally contend that the Respondent registered the disputed domain name primarily for the purpose of disrupting the Complainants' business by selling counterfeit products branded as Travis Scott, and the use of the disputed domain name is 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 Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural Issues – Consolidation of Complainants

The Complainants have filed one single Complaint together against the Respondent.

The First Complainant Jacques Bermon Webster II (also known as Travis Scott) owns the Second Complainant LaFlame Enterprises Inc., which is the owner of multiple TRAVIS SCOTT trademark registrations.

The Panel is convinced that the First Complainant and Second Complainant share a common grievance and legal interests in the TRAVIS SCOTT trademark, and their rights are both targeted by the Respondent's conduct of registering and using the disputed domain name.

Accordingly, the Panel determines that it would be equitable and procedurally efficient to give permission to the Complainants' request for consolidation in this administrative proceeding. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Based on the available record, the Panel finds that the Complainants have shown rights in respect of the TRAVIS SCOTT trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

As the generic Top-Level Domain ("gTLD") ".com" does not function to differentiate a domain name in the confusing similarity test, the recognizable part of the disputed domain name is "scottmerch" consisting of "scott", and the term "merch" (commonly referring to "merchandise").

The Panel finds that the disputed domain name partially incorporates the Complainants' TRAVIS SCOTT trademark. The Panel also notes that the TRAVIS SCOTT trademark comprises of "travis" and "scott", both words being equally visible and dominant in the trademark and that taking a holistic view of the case circumstances recalls that the Respondent had been running an online shop named Travis Scott Shop offering unauthorized TRAVIS SCOTT products by the time the Complaint was filed with the Center. The Panel is convinced that it was the Respondent's intention to target the TRAVIS SCOTT trademark, rather than a coincidence. The domain name was picked from the trademark TRAVIS SCOTT just to create the context where the domain name and TRAVIS SCOTT products would be referred to each other to enforce an impression that they were both authorized. Taken this sense, the domain name was created to be confusingly similar to the trademark.

The Panel therefore finds that the Complainants have on balance established the first element.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Having reviewed the available records, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The disputed domain name is resolving to a "Travis Scott Shop", an online shop purporting to operate under the name of TRAVIS SCOTT, providing TRAVIS SCOTT-branded products and purporting to be authorized by the Complainants. By registering a domain name incorporating the TRAVIS SCOTT trademark and claiming to be an authorized store on the website, the Respondent is attempting to impersonate the Complainants and divert traffic to its own website. The Panel determines that the Respondent's use of the disputed domain name can in no way amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel holds that the Respondent must have been well aware of the Complainants at the time of registration but deliberately chose the TRAVIS SCOTT trademark to register the disputed domain name. By displaying the TRAVIS SCOTT trademark and the untrue statement on the website, the Respondent is attempting to pass off the disputed domain name as the Complainants' authorized online shop and cause confusion among Internet visitors. The Respondent is intentionally attempting to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the TRAVIS SCOTT trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Bad faith in these circumstances is clear from the Respondent's registration and use of the disputed domain name.

The Panel finds the third element of the Policy has been established.

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 <scottmerch.com> be transferred to the Complainants.

/Linda Chang/

Linda Chang

Sole Panelist

Date: April 16, 2024