

## ADMINISTRATIVE PANEL DECISION

Jacques Bermon Webster II aka Travis Scott, and LaFlame Enterprises, Inc.  
v. Big Merch  
Case No. D2024-0816

### 1. The Parties

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

The Respondent is Big Merch, United States.

### 2. The Domain Name and Registrar

The disputed domain name <travisscottofficial.store> 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 Complainants on February 26, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on March 4, 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 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on April 5, 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 Jacques Bermon Webster II is an internationally recognized recording artist known as Travis Scott. He has produced four number-one hits on the Billboard Hot 100 and 80 total charted songs. Travis Scott has been nominated for eight Grammy Awards and has won a Billboard Music Award, Latin Grammy Award, MTV Video Music Award, and multiple BET Awards.

Travis Scott is the owner of the second Complainant, LaFlame Enterprises, Inc., which is the owner of the Principal Register at the United States Patent and Trademark Office (“USPTO”) for the trademarks TRAVIS SCOTT (the “Mark”):

- Reg. No. 5918744, registered on November 26, 2019;
- Reg. No. 6366019, registered on May 25, 2021; and
- Reg. No. 6901495, registered on November 15, 2022.

The disputed domain name was registered on January 6, 2023. When the Complaint was filed, the disputed domain name resolved to a website selling counterfeit hoodies and other clothing bearing the Mark. The disputed domain name at the time of this writing this decision does not resolve to an active website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainants contend that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. The Complainants assert the disputed domain name is confusingly similar to the Mark because the disputed domain name adopts the Mark in its entirety (albeit without a space between the words of the Mark) and merely adds the word “official.” The Complainants assert that the Complainants never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainants assert that the Respondent knew of the Mark when registering the disputed domain name and the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainants’ Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website. The Complainants assert the Respondent sold Mark branded counterfeit goods at the Respondent’s website.

##### **B. Respondent**

The Respondent did not reply to the Complainants’ contentions.

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainants must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and,
- (iii) the disputed domain name was registered and is being used in bad faith.

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

The first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainants' trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. The Panel finds that the Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Mark is recognizable within the disputed domain name. Although the addition of another term to a complainant's mark in a domain name may bear on the assessment of the second and third elements, the Panel finds the addition of the term "official" in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The disputed domain name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level Domain ("gTLD") ".store" of the disputed domain name may be disregarded for the purposes of assessment under the first element because the gTLD is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the first element of the Policy has been established.

#### **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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, 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. While the Complainant claims that the Respondent sold counterfeit goods on its website, the only evidence reinforcing such claim is the discounted nature of the goods that are identical to those sold on the Complainant's authorized web store. If the website to which the disputed domain name resolves were to be engaged in the sale of counterfeit goods, UDRP panels have held that using a domain name for illegal activity, such as selling counterfeit goods, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

However, the Panel need not determine the nature of the goods allegedly being offered for sale on the website to which the disputed domain name resolves due to the fact the website contains no disclaimer as to its lack of relationship with the Complainant, reinforcing the false perception of it being an "official" web store

authorized by the Complainant as further implied by the use of “official” in the composition of the disputed domain name. Such use cannot constitute fair use and does confer rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), sections 2.5.1 and 2.8.1.

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

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

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website.

The Respondent has prominently adopted the Mark in the disputed domain name with a gTLD “.store” that clearly suggests the disputed domain name will resolve to a website selling goods sponsored, endorsed, or affiliated with the Complainants. The evidence submitted by the Complainants shows that the Respondent allegedly offered goods on its website bearing the Mark and other registered marks of the Complainants at discounted prices. This falls squarely within the non-exhaustive list of circumstances under Policy paragraph 4(b) that if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. Here, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website (paragraph 4(b)(iv) of the Policy).

The Panel finds that the Complainants have established the third element 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 <travisscottofficial.store> be transferred to the Complainants.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: April 19, 2024