Decision for dispute CAC-UDRP-100554

Case number	**CAC-UDRP-100554**
Time of filing	**2013-03-08 11:10:46**
Domain names	**cointreau-tonic.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**COINTREAU**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Mitsutaka Ohisa**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name COINTREAU-TONIC.COM (the 'Domain Name').

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the COINTREAU brand, and has registered trade mark rights for COINTREAU in a number of classes across a substantial number of territories across the world, including the European Union and the United States of America.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant was founded in 1849 in Angers by Adolphe Cointreau, a confectioner, and his brother Edouard-Jean Cointreau. Cointreau produces a liqueur made of orange peels.

Cointreau is now a branch of the REMY COINTREAU Group.

The Complainant is the owner of the COINTREAU brand, and has registered trade mark rights for COINTREAU (word and/or logo) in a number of classes across a substantial number of territories across the world, including the European Union and

the United States of America.

Cointreau owns and communicates through various websites worldwide, the main one being hosted at “www.cointreau.com” (registered on 11/10/1995). In addition, the Complainant also owns the following registered domain names containing the “COINTREAU” trade mark, such as:

cointreau.com registered on 11/10/1995
cointreau.net registered on 11/12/2001
cointreau.fr registered on 21/12/2007
cointreau.co.uk registered on 25/10/1999
cointreau.eu registered on 08/03/2006
cointreau.hk registered on 21/09/2006
cointreauversial.com registered on 19/09/2010
cointreauversial.us registered on 30/08/2010
cointreauversial.co.in registered on 07/12/2011
cointreauversial.in registered on 07/12/2011

Confirmation of the reputation of the Complainant and the “COINTREAU” mark may be found from previous WIPO Decisions, such as:
- WIPO n°DCO2010-0019 Cointreau vs Luke Skywalker, X Wing < cointreau.co>
- WIPO n° D2001-1085 Remy Cointreau vs Greenhouse Inc. < cointreau.net>, < remymartin.net>
- CIRA n° DCA-1358 Cointreau vs Netnic Corporation < cointreau.ca>
- WIPO Case No. D2012-0735 E. Remy Martin & Co v. Giammario Villa <remymartinvs.com> and <remymartinxo.com>

A Complaint was filed by the Complainant on 8 March 2013. Following this, and following a reply to the registrar verification request which revealed the true respondent details (a proxy shield having been removed), the Complainant filed an amended Complaint. The Administrative Proceedings commenced on 19 March 2013.

The Respondent failed to submit a Response within the time frame required, or at all, and a Notification of Respondent’s Default was therefore issued by the Czech Arbitration Court on 18 April 2013.

Having received a Statement of Acceptance and Declaration of Impartiality, the Czech Arbitration Court appointed Steve Palmer, of Palmer Biggs Legal - Solicitors, as the Panel in these UDRP proceedings.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

I. The disputed domain name < cointreau-tonic.com > was registered on 02/01/2013. The Complainant contends that the domain name < cointreau-tonic.com > is confusingly similar to the trade mark “COINTREAU”.

The Complainant contends that its distinctive trade mark “COINTREAU” is well known in the world as liqueur.

The Complainant contends the disputed domain name < cointreau-tonic.com > is confusingly similar to its trade mark “COINTREAU”. The domain name includes in its entirety the trade mark “COINTREAU”.

The Complainant contends the addition of a gTLD “.COM” and the word “TONIC” is not sufficient to escape the finding that the domain is confusingly similar to its trade mark, and this additional matter does not change the overall impression of the designation as being connected to a trade mark of COINTREAU. This only reinforces the impression that the domain name is

linked to the Complainant. The term "tonic" is commonly used in beverage products.

II. The Respondent does not have any rights or legitimate interest in the Domain Name.

The Complainant contends that the Respondent is not affiliated with nor authorised by Cointreau in any way.
The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way to the Complainant's business.

The Complainant does not carry out any activity for, nor has any business with, the Respondent.

Moreover, the Respondent is not known as “COINTREAU” and prior to the dispute had hidden the registrant details via the use of a whois proxy shield.

III. The domain name(s) has been registered and is being used in bad faith

The Complainant contends that the Respondent registered the domain name with knowledge of the Complainant. Associating the trade mark “COINTREAU” with the term “TONIC” can create a risk of confusion from the Internet users.

The Complainant asserts that the Respondent registered the Domain Name to divert the potential customers to its website. Further, the Respondent obtains financial profit with the commercial links displayed on the website attached to the Domain Name.

Therefore, having regard to the above, the Domain Name should be transferred to the Complainant.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is confusingly similar to a trade mark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a)(i)of the Policy

The Panel finds the Domain Name confusingly similar to the COINTREAU trade mark in which the Complainant has registered rights.

Paragraphs 4(a)(ii) and 4(a)(iii) of the Policy

The Respondent failed to file an administratively compliant (or any) response.

The Panel finds from the facts put forward that:

- The Respondent has no rights or legitimate interests in respect of the Domain Name. There was nothing put forward in the case file which might suggest otherwise.

- The Domain Name has been registered and is being used in bad faith. The Panel believes from the facts that the Respondent had the Complainant in mind when registering the Domain Name, not least by adding the descriptive word 'TONIC' which relates to beverages in combination with the Complainant's COINTREAU trade mark, which is registered in numerous territories across the world . Further, the Panel finds it likely that the Domain Name was being held by the Respondent with the purpose of selling the Domain Name to the Complainant for a sum of money (paragraph 4(b)(i)of the Policy). The Respondent also holds the name to attract Internet users for commercial gain, by creating a likelihood of confusion with the complainant's COINTREAU trade mark (paragraph 4(b)(iv)of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **COINTREAU-TONIC.COM**: Transferred

PANELLISTS

Name	**Steve Palmer**

DATE OF PANEL DECISION 2013-04-29

Publish the Decision