Decision for dispute CAC-UDRP-101900

Case number	CAC-UDRP-101900
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Domain names	remy-coiintreau.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	REMY COINTREAU

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	F0rbo

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns, among other French trademarks, the international trademark REMY COINTREAU® n°895405 registered on July 27, 2006.

FACTUAL BACKGROUND

Created in 1990, REMY COINTREAU is the result of the merger of holding companies of the Hériard Dubreuil and Cointreau families which controlled respectively the E. Remy Martin & C° Company and the Cointreau Company. It is also the result of successive alliances between companies operating in the same sector of wines and spirits. Its main activity is the production and the sale of cognacs, spirits and liqueurs.

The Complainant owns, among other French trademarks, the international trademark REMY COINTREAU® n°895405 registered on July 27, 2006 and is using it as corporate name.

The Complainant main website is www.remy-cointreau.com registered on October 7, 1996.

The disputed domain name was registered on February 6, 2018. The website in relation with the disputed domain name

points to a parking page with commercial links.

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

- WIPO Case n° DCO2017-0026 CDecaux S.A. v. Whois Agent, Domain Protection Services, Inc / Jennifer Smith < jcdeecaux.co> (“The use of the trademark with the addition of the extra "e" in the disputed domain name does not differentiate it from the trademark. Further, the additional "e" can surely be also considered a common mistyping, a fact of which typosquatters normally take profit from by giving Internet users the impression that the disputed domain name belongs to the Complainant.”)

- FORUM case no. FA 96356 - Broadcom Corp. v. Intellifone Corp.: Panel stated that the Respondent has “no rights or legitimate interests because the respondent is not commonly known by the disputed domain name or using the domain name in connection with a legitimate or fair use”.

PARTIES CONTENTIONS

The Complainant's contentions can be summarised as follows:

The disputed domain name is confusingly similar to the Complainant's trademark REMY COINTREAU® containing an obvious misspelling of the Complainant’s trademark REMY COINTREAU® the addition of the letter “I” in the word “COINTREAU” is not sufficient to exclude likelihood of confusion.

This is thus a clear case of "typosquatting“, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark. Previous panels have found that the slight spelling variations do not prevent a disputed domain name from being confusing similar to the complainant’s trademark. Please see prior UDRP case:
- WIPO Case n° DCO2017-0026 CDecaux S.A. v. Whois Agent, Domain Protection Services, Inc / Jennifer Smith < jcdeecaux.co> (“The use of the trademark with the addition of the extra "e" in the disputed domain name does not differentiate it from the trademark. Further, the additional "e" can surely be also considered a common mistyping, a fact of which typosquatters normally take profit from by giving Internet users the impression that the disputed domain name belongs to the Complainant.”).

See also:
CAC – 100705 – REMY COINTREAU v. Vijay Kumar - <remycointreaus.info>
WIPO - D2016-1228 – REMY COINTREAU v. BARBARA MILES - <remy-colntreau.com>

Furthermore, the addition of the gTLD “.COM” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademarks and it does not change the overall impression of connection to the trademark REMY COINTREAU®.

The Respondent does not have any rights or legitimate interest in the disputed domain name.The Respondent is not known as “Remy Coiintreau” and has not acquired trademarks in this term. Indeed, past Panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information is not similar to the disputed domain name. Please see for instance:

- FORUM case no. FA 96356 - Broadcom Corp. v. Intellifone Corp.: Panel stated that the Respondent has “no rights or legitimate interests because the Respondent is not commonly known by the disputed domain name or using the domain name in connection with a legitimate or fair use”.

The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The disputed domain name points to the Registrar parking page with commercial links in which is insufficient to show a bona fide offering of goods or services or a legitimate non-commercial or fair use.

The disputed domain name has been registered and is being used in bad faith.

The similarity between the disputed domain name and the Complainant's well-known mark make it highly implausible that Respondent's registration of a confusingly similar domain name was not an intentional effort to capitalize on or otherwise take advantage of the likely confusion with Complainant's trademark rights. By registering and using a domain name that merely adds the letter "I" in Complainant's trademark, the Respondent deliberately set out to cause typosquatting confusion and to deceive as to the affiliation, connection or association of Respondent with the Complainant.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name registered in 2018 is confusingly similar to a trademark or service mark in which the Complainant has prior rights (within the meaning of paragraph 4(a)(i) of the Policy), namely the international trademark REMY COINTREAU® n°895405 registered on July 27, 2006.

The disputed domain name is confusingly similar to the Complainant's trademark REMY COINTREAU® as it contains a misspelling of the Complainant’s trademark REMY COINTREAU® with the addition of the letter “I” in the word “COINTREAU” which is not sufficient to prevent likelihood of confusion. Nor is the addition of a gTLD such as “.com“ suffient to avoid such confusion.

This Panel, therefore finds that the first requirement of paragraphb 4 (a) of the Policy is satisfied.

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 disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

Complainant must show that Respondent has no rights or legitimate interests in respect of the disputed domain name. Respondent in a UDRP proceeding does not assume the burden of proof, but may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy:
a) that before any notice to the respondent of the dispute, he or she used or made preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
b) that the respondent is commonly known by the domain name, even if he or she has not acquired any trademark rights; or
c) that the respondent is making a legitimate, non-commercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Respondent does not appear to have been commonly known by the disputed domain name.

Respondent has no connection or affiliation with Complainant, which has not licensed or otherwise authorised Respondent to use or apply for any domain name incorporating the Complainant’s trademark. Respondent does not appear to make any legitimate use of the disputed domain name for non-commercial activities. On the contrary, it appears that Respondent’s used the disputed domain name to direct consumers to a Pay Per Click parking page with links to websites that offered goods and/or services of a different nature which is not a bona fide offering of goods and services under the Policy. Accordingly, Respondent has not shown any facts or elements to justify prior rights and/or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

BAD FAITH

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

For the purpose of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:
i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or
ii) the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's website or location or of a product or service on the holder's website or location.

Accordingly, for a Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

This Panel considers that Respondent's use of a slight variation of Complainant's trademark can be regarded as typosquatting. The Panel agrees with Complainant's view that typosquatting itself is per se bad faith.

Besides, in view of the fame of Complainant's trademark, the Panel finds that there are good reasons to believe that Respondent had actual knowledge of Complainant's distinctive two part REMY COINTREAU® trademark when it registered the disputed domain name. The Panel, in accordance with previous decisions issued under the UDRP, is of the opinion that actual knowledge of Complainant's trademark and activities at the time of the registration of the disputed domain name may be considered an inference of bad faith (See Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net, WIPO Case No. D2000-0226 and Sony Kabushiki Kaisha (also trading as Sony Corporation) v. Inja, Kil WIPO Case No. D2000-1409. "It is inconceivable that the Respondent could make any active use of the disputed domain name without creating a false impression of association with the Complainant. The Respondent was not authorized by the Complainant to use neither its mark nor the disputed domain name".

Finally, as regards Respondent's use of the disputed domain name, it appears that Respondent's website was used for a parking site with commercial ads and sponsored links redirecting to websites offering goods and services of various types. By so deflecting Internet users, Respondent has shown bad faith registration and use of the disputed domain name that clearly falls within the example given in paragraph 4(b)(iv) of the Policy.

Considering the foregoing, the Panel concludes that Respondent registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy are satisfied.

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

The disputed domain name is a typosquatted version of the Complainant's REMY COINTREAU® trademark which has been used to point to third party pay per click links.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **REMY-COIINTREAU.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2018-03-20

Publish the Decision