Decision for dispute CAC-UDRP-102321

Case number	CAC-UDRP-102321
Time of filing	2019-01-30 13:01:12
Domain names	remy-coinrteau.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	REMY COINTREAU

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Danny Mccommick

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has proven to be the owner of the REMY COINTREAU mark.

The Complainant is, inter alia, the owner of the following trademarks:

REMY COINTREAU, International trademark registration No. 895405, registered on July 27, 2006;

REMY COINTREAU, French trademark registration No. 4092651, registered on May 22, 2014.

FACTUAL BACKGROUND

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

Created in 1990, REMY COINTREAU is the result of the merger of holding companies owned by the Hériard Dubreuil and Cointreau families which controlled respectively the E. Remy Martin & Co. 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. 95% of production is sold outside France.

The Complainant owns several domain names worldwide and uses them to communicate on the Internet. The main one is <remy-cointreau.com>, registered on October 7, 1996.

The disputed domain name <remy-coinrteau.com> was registered on January 22, 2019.

The website hosted at the disputed domain name <remy-coinrteau.com> points to a parking page with commercial links ("PPC").

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant contends that the disputed domain name <remy-coinrteau.com> is confusingly similar to its well-known and distinctive trademark REMY COINTREAU.

Indeed, the inversion of the letters "R" and "T" in the word "COINTREAU" is not sufficient to exclude the likelihood of confusion. The Complainant further affirms that, owing to the fact that the disputed domain name contains an obvious misspelling of the Complainant's trademark, the present case represents a clear case of typo-squatting.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

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

The Complainant contends that owing to the renown of the Complainant's trademark, it is presumable that the Respondent had actual knowledge of the Complainant's distinctive trademark. In support of this claim the Complainant refers to CAC – 101900 – REMY COINTREAU v. F0rbo - <remy-coiintreau.com> ("the Panel finds that there are good reasons to believe that Respondent had actual knowledge of Complainant's distinctive two parts REMY COINTREAU® trademark when it registered the disputed domain name.").

The Complainant further considers that the Respondent's use of a slight variation of the Complainant's trademark can be regarded as a typo-squatting case, and thus is an inference of bad faith.

The disputed domain name is used for a parking site with commercial ads and sponsored links redirecting to websites offering goods and services of various types. The Complainant thus contends that the Respondent attempts to attract Internet users by creating a likelihood of confusion with the Complainant's trademark.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark 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 disputed 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 disputed 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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark and that the present case represents a clear case of typo-squatting.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant’s unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant’s trademark.

Thirdly, it appears from the document provided by the Complainant that the Respondent is using the disputed domain name and the corresponding website for commercial gain, by redirecting to websites offering goods and/or services unrelated to

those of the Complainant.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2019-03-01

Publish the Decision