Decision for dispute CAC-UDRP-103032

Case number	CAC-UDRP-103032
Time of filing	2020-04-27 09:04:08
Domain names	remy-colntraeu.com

Case administrator

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

Complainant

Organization	REMY COINTREAU

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	joyce gardner

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks comprising of the terms “REMY COINTREAU”, such as the international trademark REMY COINTREAU® n°895405 registered on July 27, 2006 for, inter alia, alcoholic drinks.

FACTUAL BACKGROUND

Created in 1990, the Complainant 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. 95% of the production is sold outside France.

The Complainant’s main domain name is <remy-cointreau.com>, registered on October 7, 1996.

The disputed domain name <remy-colntraeu.com> was registered on March 26, 2020.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant’s contentions can be summarised as follows:

The Complainant states that the disputed domain name <remy-colntraeu.com> is confusingly similar to its trademark REMY COINTREAU®.

Indeed, the Complainant contends the replace of the letter “I” by the letter “L” and the inversion of letters “A” and “E” in the trademark REMY COINTREAU® and the use of the gTLD “.COM” are not sufficient to escape the finding that the disputed domain name <remy-colntraeu.com> is confusingly similar to the Complainant’s trademark and it does not change the overall impression of the designation as being connected to the trademark REMY COINTREAU®.

The disputed domain name <remy-colntraeu.com> constitutes a misspelled word of the Complainant’s registered trademark REMY COINTREAU®.

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 does not prevent a disputed domain name from being confusingly similar to the complainant’s trademark.

See Forum Case No. FA 0956501, T.R. World Gym-IP, LLC v. William D'Addio (“The addition of the letter “s” and of the generic top-level domain “.com” is insufficient to distinguish the domain name from the mark. “).

Moreover, past panels commonly stated that the gTLD is not relevant in the appreciation of confusing similarity.

See WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. (“It is also well established that the specific top level of a domain name such as “.com”, “.org” or “.net” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.”).

Finally, past Panels have confirmed the Complainant’s rights over the terms “REMY COINTREAU”. See:

- CAC Case No. 102577, REMY COINTREAU v. Michelle Johnson <remy-cointreou.com>;

- CAC Case No. 102337, REMY COINTREAU v. Danny Mccommick <remy-conitreau.com>;

- CAC Case No. 101900, REMY COINTREAU v. F0rbo <remy-coiintreau.com>.

Thus, the disputed domain name is confusingly similar to the Complainant’s trademark REMY COINTREAU®.

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

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant contends that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

See Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <remy-colntraeu.com> and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

No licence or authorization has been granted to the Respondent by the Complainant to make any use of the Complainant's trademark REMY COINTREAU®, or to apply for registration of the disputed domain name.

Furthermore, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark REMY COINTREAU®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. See:

- Forum Case No. 1765498, Spotify AB v. The LINE The Line / The Line ("The Panel finds that Respondent's registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy 4(a)(ii).");

- Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).").

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name.

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

By registering the domain name <remy-colntraeu.com> with the misspelling of the trademark REMY COINTREAU®, the Complainant states that this practical was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP panels have seen such actions as evidence of bad faith.

See CAC Case No. 101900, REMY COINTREAU v. F0rbo ("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 disputed domain name points to an inactive webpage but the Respondent is attempting to impersonate and pass itself off as Complainant as part of an e-mail phishing scheme for commercial gain. Use of a domain name in this manner constitutes bad faith pursuant to Policy 4(b)(iii) and/or (iv). See Abbvie, Inc. v. James Bulow, FA 1701075 (Forum Nov. 30, 2016) ("Respondent uses the <abbuie.com> domain name to impersonate Complainant's CEO. Such use is undeniably disruptive to Complainant's business and demonstrates bad faith pursuant to Policy 4(b)(iii), and/or Policy 4(b)(iv)").

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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

The disputed domain name registered in 2020 consists of a misspelled version of the Complainant's registered mark REMY COINTREAU (registered as an international trade mark for alcoholic drinks since 2006) and the gTLD .com. The Panel agrees that replacing the letter "I" with the letter "L" and the inversion of letters "A" and "E" in the trademark REMY COINTREAU® and the use of the gTLD ".COM" are not sufficient to escape the finding that the disputed domain name <remy-colntraeu.com> is confusingly similar to the Complainant's trademark.

The Respondent is not commonly known by the disputed domain name or authorised by the Complainant.

Typosquatting and phishing are not a bona fide offering of goods or services or a legitimate non-commercial or fair use - they are registration and use in bad faith under the Policy per se.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2020-05-21

Publish the Decision