

Decision for dispute CAC-UDRP-103829

Case number CAC-UDRP-103829

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Domain names remymartin.link

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization E. REMY MARTIN & C°

Complainant representative

Organization Nameshield (Enora Millocheau)

Respondent

Name khaled hosuuun

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 owns various REMY MARTIN trademarks worldwide. For the purpose of this Complaint, it provides details of the following trademark registrations:

- REMY MARTIN (word mark), US registration No. 749501, filed on 15 May 1962 and registered on 14 May 1963, in class 33;
- REMY MARTIN (figurative mark), international registration No. 236184, of 1 October 1960, for goods in class 33;
- REMY-MARTIN (word mark), international registration No. 457204 of 16 December 1980, for goods in classes 32 and 33;
- REMY MARTIN (word mark), international registration No. 508092 of 1 December 1986, for goods in classes 32 and 33;
- REMY MARTIN (figurative mark), international registration No. 1021309 of 18 September 2009, for goods and services in classes 29, 30, 35, 41 and 43.

Furthermore, the Complainant is the owner of the domain name <remymartin.com> registered on 25 September 1997.

FACTUAL BACKGROUND

The Complainant is a French company founded in 1724 active in the field of production and distribution of alcoholic

beverages, in particular high premium cognac, worldwide. The very first trademark containing the element REMY MARTIN was registered in France in 1877 under No. 134. The REMY MARTIN cognac is one of the most popular cognacs in the world, where 95% of the Complainant's production is sold.

The disputed domain name was registered on 21 April 2021 and resolves to a website, which is the exact copy of the Complainant's official website at www.remymartin.com.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant maintains that the disputed domain name is identical to its trademark REMY MARTIN as it includes it in its entirety and the gTLD ".link" is a standard requirement and should be disregarded.

The Complainant further maintains that the Respondent lacks rights and legitimate interests in the disputed domain name because the Respondent is not known by the disputed domain name and is not related to the Complainant. Furthermore, the Complainant did not grant any license or authorisation to register a domain name including the trademark REMY MARTIN. Lastly, the Complainant points out that the disputed domain name is used to access a website, which is the exact copy of the Complainant's website. This use of the disputed domain name does not amount to a bona fide offering of goods and services, nor to a legitimate noncommercial or fair use of it.

In respect of registration and use in bad faith, the Complainant contends that in view of the fact that its REMY MARTIN trademark is well known and that the disputed domain name leads to a website, which is a copy of the Complainant's official website, it is clear that the Respondent registered the disputed domain name being well aware of the existence of the Complainant's trademark. Therefore the Respondent registered the disputed domain name in bad faith. Furthermore, the Respondent uses the disputed domain name to redirect the Internet traffic to a website that is not associated with the Complainant. According to the Complainant, the disputed domain name has been registered to take advantage of the reputation of its trademark for the Respondent's benefit. Hence, also the use of the disputed domain name is 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

1. Rights

The Complainant has shown that it owns registered trademark rights over the terms REMY MARTIN since at least 1962. The disputed domain name is identical to the Complainant's trademark as it fully includes it without further addition, but for the gTLD ".link", which is a mere technical requirement that cannot prevent a finding of identity between the two signs.

Thus, the Panel is satisfied that the first requirement under the Policy is met.

2. Absence of Rights or Legitimate Interests

While the overall burden of proof under the Policy proceedings rests on the Complainant, it is generally recognized that, in order to prove the respondent's lack of rights or legitimate interest in the disputed domain name, it is sufficient for the Complainant to make out a prima facie case to shift the burden of proof to the Respondent. This is so because proving a third party's negative fact, such as the Respondent's lack of rights or legitimate interest, would otherwise result in an almost impossible task for the Complainant.

In the instant case, the Complainant maintains that it does not have any business activity, nor any other kind of relation with the Respondent. Moreover, the Complainant never licensed the use of its trademark to the Respondent, nor authorized the Respondent to register its trademark as a domain name. The Respondent is using the disputed domain name to lead to a website, which is the exact copy of the Complainant's official website. This kind of use does not amount to a bona fide offering of goods or services, nor to a legitimate noncommercial or fair use of the disputed domain name. Rather, the Respondent is attempting to free-ride on the Complainant's reputation by deceiving consumers into thinking the Respondent's website at the disputed domain name is that of the Complainant. See in this respect WIPO Case No. D2018-1434, Paper Australia Pty Ltd v. Sabyasachi Baral: "The Domain Name redirected to a "mirror" web page, copying the design and content from the Complainant's web page. Such use cannot be considered as a bona fide offering nor a legitimate noncommercial or fair use within the meaning of the Policy".

In view of the foregoing, the Panel finds that the Complainant has made an un rebutted prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Therefore, the Panel is satisfied that also the second condition under the Policy is met.

3. Registration and use of the disputed domain name in bad faith

The Complainant's trademark is highly distinctive and has been the subject of a widespread and longstanding use. The disputed domain name is identical to the Complainant's trademark. It is therefore not conceivable that the Respondent registered the disputed domain name by chance. Rather, it is very clear that the Respondent was well aware of the Complainant's REMY MARTIN trademark at the time of the registration of the disputed domain name.

The Respondent is using the disputed domain name to redirect to a website that is the exact copy of the Complainant's website. The Respondent is therefore unduly impersonating the Complainant and is seeking to create a misleading impression that the disputed domain name and the website that it resolves to are operated by, or otherwise affiliated with, the Complainant. The exact purpose of the Respondent is not clear, but the Panel notes that the relevant website contains links to online shops where one can buy the Complainant's products. It, therefore, cannot be excluded that the Respondent is seeking to obtain personal information, including credit card information, from the Complainant's misled customers for some fraudulent purpose. For a similar case, see also WIPO Case No. D2020-0159, G4S Plc v. Domain Administrator, PrivacyGuardian.org / Thomas Roberts.

In view of the above, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

Hence, the Panel is satisfied that also the third and last condition under the Policy is met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. REMYMARTIN.LINK: Transferred

PANELLISTS

Name **Angelica Lodigiani**

DATE OF PANEL DECISION **2021-07-04**

Publish the Decision
