Decision for dispute CAC-UDRP-100549

Case number	CAC-UDRP-100549
Time of filing	2013-01-08 16:11:56
Domain names	REMEYMARTIN.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	E. REMY MARTIN & C°

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Kevin Wall

OTHER LEGAL PROCEEDINGS

No other legal proceedings are known.

IDENTIFICATION OF RIGHTS

Complainant is, inter alia, the record owner of the following registrations in several countries:

Trademark Country Registration Number Registration Date
REMY MARTIN International 203744, 02.10.1957
REMY MARTIN International 236184, 01.10.1960
REMY MARTIN International 508092, 01.12.1986
REMY MARTIN International 552765, 30.03.1990
REMY MARTIN International 1021309, 18.09.2009
REMY MARTIN US 0749501, 14.05.1963
REMY MARTIN US 1027514 ,16.12.1975

FACTUAL BACKGROUND

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

The Complainant owns and communicates on the Internet through various websites worldwide. The main one is “www.remymartin.com” (registered on 25/09/1997), but the Complainant has also registered numerous domain names similar to trademark “REMY MARTIN” such as:

remy-martin.com registered on 06/10/1998
remymartin.net registered on 11/12/2001
remy-martin.net registered on 28/08/2009
remymartin.fr registered on 28/07/1996
remy-martin.fr registered on 27/12/2001
remymartin.in registered on 21/09/2006
remymartin.asia registered on 10/12/2007
remy-martin.asia registered on 07/12/2007
remymartin.cn registered on 17/03/2003
remy-martin.cn registered on 17/03/2003
remymartinvsop.com registered on 23/02/2011
remymartin.us registered on 19/04/2002
remymartinv.com registered on 15/06/2010
remymartin-xohonors.com registered on 01/12/2005

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

As said, Complainant is, inter alia, the record owner of various trademark registrations in several countries. Therefore, the Complainant has trademark 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).

With regards to the disputed “remeymartin.com” domain name, the practice of the Respondent of typosquatting demonstrates a lack of rights or legitimate interests pursuant to ICANN Policy Paragraph 4(a)(ii). See Nat’l Ass’n of Prof’l Baseball Leagues, Inc. v. Zuccarini, D2002-1011 (WIPO Jan. 21, 2003) (“Typosquatting … as a means of redirecting consumers against their will to another site, does not qualify as a bona fide offering of goods or services, whatever may be the goods or services offered at that site.”); see also IndyMac Bank F.S.B. v. Ebeyer, FA 175292 (Nat. Arb. Forum Sept. 19, 2003) (finding that the respondent lacked rights and legitimate interests in the disputed domain names because it “engaged in the practice of typosquatting by taking advantage of Internet users who attempt to access Complainant's “indymac.com” website but mistakenly misspell Complainant's mark by typing the letter ‘x’ instead of the letter ‘c’”).

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).

A review of the web pages shows that the web page was set up with a view to commercial gain from “click-through” payments from internet users who make mistakes typing in the web sites of the Complainants. The links of the disputed web pages to which the domain names at issue resolve lead to other topics related to, inter alia, alcoholic drinks. This evidences the bad faith of the registration.

The before said is not influenced by the fact that the content of the domain has been edited and the former links have been deleted.

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. In line with the complaint check, the Case Administrator asked the Complainant whether to switch the Respondent since the present Respondent informed the Case Administrator to be only the Registrar. The Complainant amended the complaint in order to sue the right Respondent. As no administratively compliant response has been filed, a simplified decision was due.

PRINCIPAL REASONS FOR THE DECISION

1. The Complainant has rights in its registered trademark as it is a well-known trademark with international reputation. The Complainant's trademark is the distinctive and dominant part of the disputed domain name and the added character "e" is not enough to distinguish the domain name. The Panel finds that the disputed domain name "remeymartin.com" is confusingly similar to the Complainant's registered trademark.

The domain name "remeymartin.com" is an example of typosquatting, a process in which a domain name registrant attempts to register a confusingly similar domain name that differs from a protected mark only slightly by taking advantage of common typing errors. The domain "remeymartin.com" fully incorporates the mark of the Complainant and adds only an "e".

2. In lack of any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. The Respondent registered the disputed domain name to attract Internet users to his website by creating likelihood of confusion with the Complainant's trademark. He also takes advantage of increased traffic to his site due to typosquatting as he gets revenues of commercial links related to the business of the Complainant. Exploration of the Respondent's website proved that the Respondent is using the disputed domain name on a website advertising among others also links to websites which are selling goods covered by the Complainant's trademark. He attempts to take personal commercial profit by redirecting potential customers to other retailers through the indication of the sponsored links. As such the Panel is of the opinion that the domain name has been registered and used in bad faith, in order to take advantage of slight misspelling of the Complainant's trade mark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **REMEYMARTIN.COM**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2013-02-25

Publish the Decision