Decision for dispute CAC-UDRP-100564

Case number	**CAC-UDRP-100564**
Time of filing	**2013-03-05 16:05:57**
Domain names	**ruouremymartin.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**E. REMY MARTIN & C°**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Tuan Nguyen Anh**

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

RIGHTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant has shown (and provided copies thereof as Annex 3) that Complainant owns numerous trademark registrations containing or consisting of terms “REMY MARTIN” in many countries, such as (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 International 862523 15.02.2005
REMY MARTIN International 629594 04.01.1995
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:

With its Complaint, filed on 5 March 2013, the Complainant showed (and provided copies thereof as Annex 3) that “REMY MARTIN” is a cognac brand produced by E. REMY MARTIN & C°. It was established in 1724 by two wine-growers and became, by the end of the 19th century, a trading house with an international reputation.

In addition, the Complainant proved by means of an extract taken from the Google translator-website (Annex 5) that the term “RUOU” means "wine" in Vietnamese language.

The Complainant particularly relies on two UDRP-decisions:
- ADR Case n° 100548 E. REMY MARTIN & C vs Fred Frampton <buyremymartin.com>, <remymartinlouisxiii.com>, <louisxiiicognac.com>
- Wipo Case n°D2012-0735 E. Remy Martin & Co vs Giammario Villa <remymartinxo.com> <remymartinvs.com>

On 7 March 2013, the ADR Center of the Czech Arbitration Court notified the Respondent that an administrative proceeding has commenced against it pursuant to the Uniform Dispute Resolution Policy and Rules and set a term as of 20 days (i.e. until 27 March 2013) to file a response. Subsequently, on 20 March 2013, the ADR Centre of the Czech Arbitration Court reminded the Respondent of the upcoming expiration of that term.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the 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 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 that the 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 the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1.
Based on the undisputed multiple trademark registrations cited by the Complainant (listed above) the Panel is satisfied that the Complainant has rights in the trademark REMY MARTIN amongst others for alcoholic beverages, in particular wines and spirits. The Respondent did not challenge these allegations.

2.
The disputed domain name is confusingly similar to the REMY MARTIN trademarks, since - according to the Complainant's undisputed allegations - the term "RUOU" means “wine” in Vietnamese language and has, therefore, descriptive connotations

within the context at issue. Accordingly, the challenged domain name is confusingly similar to the Complainant's trademarks.

3.
Furthermore, as a result of the Complainants' undisputed allegations and without any evidence from the Respondent to the contrary, the Panel is satisfied that the Complainant has also proven the second and third element of the UDRP:

Indeed, the Complainant stated that the Respondent has no rights in the trademark REMY MARTIN. In particular, Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant's business.

Finally, the Panel is satisfied that the Respondent registered the disputed domain name and is using it in bad faith. Accordingly, it is satisfied that the Respondent has registered the challenged domain name for the mere purpose of creating a risk of confusion and diverting the Internet users to its website. Moreover, the fact that the domain name is not being used is to be considered as passive holding. The incorporation of a famous mark into a domain name, coupled with an inactive website, is to be considered as bad faith registration and use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **RUOUREMYMARTIN.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2013-04-15

Publish the Decision