Decision for dispute CAC-UDRP-100705

Case number	**CAC-UDRP-100705**
Time of filing	**2013-11-18 10:27:20**
Domain names	**remycointreaus.info**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**REMY COINTREAU**

Complainant representative

Organization	**Nameshield (Anne Morin)**

Respondent

Name	**Vijay Kumar**

OTHER LEGAL PROCEEDINGS

None of which Panel is aware

IDENTIFICATION OF RIGHTS

See "Factual Background" and "Principal Reasons for Decision" below.

FACTUAL BACKGROUND

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

Complainant’s Rights

Created in 1990, REMY COINTREAU is the result of the merger of holding companies of the Hériard Dubreuil family and the Cointreau family 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 and liqueurs. 95% of the production is sold outside France.

Owner of several brands like COINTREAU®, REMY MARTIN®, LOUIS XIII DE REMY MARTIN®, ST-REMY®, METAXA®, BRUICHLADDICH®, MOUNTGAY®, IZARRA® and PASSOA®, the Complainant owns also the trademark REMY COINTREAU®

in word or in word/logo and is using it as corporate name in France and abroad for branches.

The Complainant owns and communicates on the Internet through various websites in worldwide. The main one is www.remy-cointreau.com (registered on May 02, 2001), but the Complainant has also registered domain names similar to the trademarks REMY COINTREAU®.

The disputed domain name < remycointreaus.info > has been registered on March 11, 2013. The Complainant contends that the disputed domain name < remycointreaus.info > is confusingly similar to the trademarks and products REMY COINTREAU®.

On July 5, 2013, a cease-and-desist letter has been sent to the Respondent by email (vijaybloglink@gmail.com) and by post to inform him about the content of the website related to the trademarks. The Respondent has not provided response to this letter.

The Complainant contends the disputed domain name < remycointreaus.info > is confusingly similar to its trademarks REMY COINTREAU®. The domain name incorporates the trademark REMY COINTREAU® in its entirety.

Moreover, the Complainant contends the addition of a letter “S” is not sufficient to escape the finding that the domain is confusingly similar to the trademark.

Thus, it does not change the overall impression and does not avoid the likelihood of confusion between the disputed domain name <remycointreaus.info > and the Complainant, its trademarks and its domain names associated.

The Respondent does not have any rights or legitimate interest in the domain name(s)

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, a complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way.
The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way to the Complainant’s business.

The Complainant does not carry out any activity for, nor has any business with the respondent.

The WhoIs record for the disputed domain name lists “Vijay Kumar” as the Registrant. Panels have previously held that the WhoIs listing is illustrative of whether a respondent is commonly known by a disputed domain name.
See “Braun Corp. v. Loney”, FA 699652 (Nat. Arb. Forum July 7, 2006) (concluding that the respondent was not commonly known by the disputed domain names where the WhoIs information, as well as all other information in the record, gave no indication that the respondent was commonly known by the disputed domain names, and the complainant had not authorized the respondent to register a domain name containing its registered mark).

Despite the cease-and-desist letter (sent on 5 July 2013), the Respondent has not justified clearly the purpose of this registration.

The website related to the domain name displays information about advertising. There is no information regarding the Respondent’s activity.

The domain name(s) has been registered and is being used in bad faith.

The Complainant’s trademarks are well-known through the world, especially in India.

See:
- INDRP case n°INDRP/186 <remy-martin.in> E. REMY MARTIN & C° vs Netlon Inc.,Riguo Ding
- INDRP case n°INDRP/421 <remy-martin.co.in> E. REMY MARTIN & C° vs Riguo Ding
- INDRP case n°INDRP/422 <remymartin.co.in> E. REMY MARTIN & C° vs Maria R. Dempsey

Given the distinctiveness of the Complainant's mark it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's marks and uses it for the purpose of misleading and diverting Internet traffic. See for instance “Ferrari S.p.A v. American Entertainment Group. Inc”, WIPO Case No.D2004-0673.

Except the addition of the letter “S”, the domain name < remycointreaus.info > is confusingly similar to the Complainant’s trademarks.
The Respondent registered a domain name which is an obvious misspelling of the Complainant’s trademark. This is a compelling evidence of typosquatting.

The Complainant therefore requests for transfer of disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

PRINCIPAL REASONS FOR THE DECISION

The Complainant is the owner of various trade marks that comprise or incorporate the term “Remy Cointreau”. They include Community Trade Mark no. 0895405 dated 27 July 2006. The domain name <remycointreaus.info> (the “Domain Name”) is clearly confusingly similar (as that term is understood under the UDRP) to that trade mark.

The Domain Name was registered on 11 March 2013. For at least some of the time since its registration the Domain has been used for a website that promotes various IT related services including web design and SEO services. These appear to be the services of the Respondent.

There is no credible legitimate use of the Domain Name that is unconnected with the Complainant’s mark. Given this, the Panel concludes that it is more likely than not that the Respondent has registered and used the Domain Name in order in some manner to take advantage of the reputation of the Complainant’s mark. In the circumstances, the Panel finds that the Registrant has no right or legitimate interest in the Domain Name and that the Domain Name was registered and has been

used in bad faith.

The Panel also notes that although no formal Response was filed in these proceedings, the Respondent has indicated a willingness in email correspondence subsequent to the commencement of these proceedings to transfer the Domain Name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **REMYCOINTREAUS.INFO**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2014-01-07

Publish the Decision