

Decision for dispute CAC-UDRP-104422

Case number	CAC-UDRP-104422
Time of filing	2022-03-21 09:50:08
Domain names	metaremy martin.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	E. REMY MARTIN & C°
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Tennille Parris
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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 is the registered owner of the trademark REMY MARTIN which was first registered in France in 1877 and subsequently in different countries, as listed below:

- (i) US registration No. 749501 REMY MARTIN, registered on May 14, 1963;
- (ii) International registration No. 236184 REMY MARTIN, registered on 10 October, 1960;
- (iii) International registration No. 457204 REMY MARTIN, registered on 16 December, 1980;
- (iv) International registration No. 508092 REMY MARTIN, registered on 1st December, 1986; and
- (v) International registration No. 1021309 REMY MARTIN, registered on 18 September, 2009.

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

FACTUAL BACKGROUND

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

According to the Complaint, the disputed domain name was parked offering pay-per-click links. Currently, the disputed

domain name resolves to a blank page with no content stored on it.

The Complainant is a French company engaged in market of alcoholic beverages. Founded in 1724 in France, the Complainant specializes in the production of high quality cognacs. The REMY MARTIN trademark is used to designate each cognac of the whole collection: REMY MARTIN VSOP, REMY MARTIN XO, REMY MARTIN 1738 ACCORD ROYAL, REMY MARTIN CLUB, REMY MARTIN CENTAURE, REMY MARTIN CENTAURE DE DIAMANT, LOUIS XIII DE REMY MARTIN.

The REMY MARTIN mark is associated to a logo of centaur design.

The disputed domain name <metaremy martin.com> was registered on 2 March, 2022.

No information is known about the Respondent who registered the disputed domain name <metaremy martin.com> under a privacy statement.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <metaremy martin.com> and the Complainant's registered trademark are confusingly similar.

Particularly, the Complainant contends that the disputed domain name <metaremy martin.com> fully incorporates the Complainant's trademark and considers the present situation as a clear case with a risk of confusion between prior trademark and a domain name.

The Complainant also points out that the applicable Top-Level suffix “-.com” does not per se prevent the likelihood of confusion.

No rights or legitimate interests

The Complainant does not explicitly argue that the Respondent is not commonly known by the disputed domain name or a name corresponding to the disputed domain name but points out that 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.

Moreover, the Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way with the Complainant as it does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark REMY MARTIN, or apply for registration of the disputed domain name by the Complainant.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states due to its worldwide presence and considering that the Complainant's mark REMY MARTIN is a well-known trademark, the Respondent certainly had full knowledge of the Complainant rights over the name REMY MARTIN at the time of the disputed domain name's registration.

Moreover, the Complainant contends that, the disputed domain name resolves to a parking page with commercial links which shows indirectly to the Respondent's intention to attract Internet users for commercial gain to his own website thanks to the reputation of the Complainant's trademark.

Thus, according to the Complainant, the Respondent registered the disputed domain name <metaremy martin.com> and is using it in bad faith.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to trademark 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 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

Paragraph 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidences provided in support of them.

1.

The Panel finds that the disputed domain name <metaremy martin.com> is visually, conceptually and phonetically very similar with the Complainant's registered trademarks containing the word element "REMY MARTIN", given that the domain name incorporates the majority of the same letters, have the same word structure and look alike at the first sight. Indeed, the disputed domain name appears to be a derived version of the registered trademark rather than a different denomination independently selected by the Responded, as it fully incorporates a trademark already registered and used by the Complainant.

Moreover, the addition of the initial four letters and the gTLD ".com", which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademark produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademark are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2. According to the Complainant's contentions and evidences submitted within this proceeding, which were not disputed, the

Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant, and rather appears to be a supplier of the Complainant's products not authorized to use a trademark "REMY MARTIN", or any combination of such trademark.

Furthermore, the disputed domain name <metaremy martin.com> resolves currently in blank web page. Therefore, it is reasonable to infer that the Respondent does not have any legitimate interest in the disputed domain name.

Consequently, and in the absence of a Response, the Panel finds that the Respondent have no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. Given the widespread presence of the Complainant's trademarks and the timeframe during which the Complainant's trademark have been registered, the Panel finds that by registering the domain name <metaremy martin.com>, the Complainant intended to free ride on the Complainant's reputation on the worldwide market of alcoholic beverages.

Indeed, by choosing and registering the disputed domain name which represents a very similar version of the Complainant's well-known trademark, the Respondent is likely to be engaged in cybersquatting, a practice by which a registrant of a domain name deliberately introduces slight deviations into famous marks for its commercial gain.

In other words, in the absence of sufficient evidence to the contrary and rebuttal from the Respondent, the Panel infers that by choosing to register the domain name which is similar to Complainant's well-known trademark and using such domain name to place on it a website with pay-per-click links and subsequently with no content stored on it, the Respondent's activity is indicative of registration and use of the disputed domain name in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. METAREMYMARTIN.COM: Transferred

PANELLISTS

Name	JUDr. Hana Císlerová, LL.M.
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DATE OF PANEL DECISION 2022-04-14

Publish the Decision
