

Decision for dispute CAC-UDRP-104441

Case number	CAC-UDRP-104441
Time of filing	2022-03-24 09:34:28
Domain names	metaremycointreau.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	REMY COINTREAU
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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 that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is the owner of “several trademarks comprising the terms ‘REMY COINTREAU’,” including Int’l Reg. No. 895,405 for REMY COINTREAU (registered July 27, 2006) (the REMY COINTREAU Trademark).

FACTUAL BACKGROUND

Complainant states that it was created in 1990 and is engaged in “the production and the sale of cognacs, spirits and liqueurs.” Complainant also states that it is the registrant of and uses the domain name <remy-cointreau.com>, which was created on October 7, 1996.

The Disputed Domain Name was created on March 22, 2022, and is associated with what Complainant describes as “registrar parking page with commercial links related to the Complainant’s activities.” A screenshot of the website associated with the Disputed Domain Name includes links labeled “Whisky Couvreur,” “Corvoisier,” and “Vente Whisky Japonais.”

PARTIES CONTENTIONS

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 a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP).

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 UDRP).

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 UDRP).

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

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the REMY COINTREAU Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the REMY COINTREAU Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "metaremycointreau") because "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." WIPO Overview of WIPO Overview 3.0, section 1.11.1.

Here, the Disputed Domain Name contains the REMY COINTREAU Trademark in its entirety. As set forth in section 1.7 of WIPO Overview 3.0, "in cases where a domain name incorporates the entirety of a trademark,... the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." Further, as set forth in section 1.9 of WIPO Overview 3.0, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

Accordingly, the Panel finds that Complainant has proven the first element of the UDRP.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Respondent is not known as the disputed domain name"; Respondent "is not related in any way with the Complainant"; "Complainant does not carry out any activity for, nor has any business with the Respondent"; "[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark REMY COINTREAU®, or apply for registration of the disputed domain name by the Complainant"; and "[t]he disputed domain name resolves to a parking page with commercial links," which "[p]ast panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use."

WIPO Overview 3.0, section 2.1, states: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location.

Numerous panels under the UDRP have found the registration and use of a domain name that is confusingly similar to a complainant’s trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the UDRP where, as here, the domain name is associated with a monetized parking page that could be construed as associated with the complainant. See, e.g., Wal-Mart Stores, Inc. v. Whois Privacy, Inc., WIPO Case No. D2005 0850; Columbia Pictures Industries, Inc. v. North West Enterprise, Inc., WIPO Case No. D2006-0951; and Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service, WIPO Case No. D2011-1753.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **METAREMYCOINTREAU.COM**: Transferred

PANELLISTS

Name	Douglas M. Isenberg
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DATE OF PANEL DECISION	2022-05-11
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Publish the Decision