

Decision for dispute CAC-UDRP-104493

Case number	CAC-UDRP-104493
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Time of filing	2022-04-13 09:05:41
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Domain names	remymartin.fun
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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	Ryan Sawrie
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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 trademark REMY MARTIN was registered by the Complainant for the first time in France in 1877.

The Complainant owns trademark registrations with the trademark REMY MARTIN in several countries, including:

- The International trademark REMY MARTIN n° 236184 registered since 1960-10-01;
- The US trademark REMY MARTIN® n° 749501 registered since 1963-05-14;
- The International trademark REMY-MARTIN n° 457204 registered since 1980-12-16;
- The International trademark REMY MARTIN n° 508092 registered since 1986-12-01;
- The International trademark REMY MARTIN n° 1021309 registered since 2009-09-18.

The Complainant owns <remymartin.com>, registered on 1997-09-25.

FACTUAL BACKGROUND

Founded in 1724, The Complainant is a company based in France and a branch of the REMY COINTREAU Group engaged in producing and distributing alcoholic beverages worldwide (principal website at: <http://www.remymartin.com>).

The Complainant is specialized in the production of premium quality cognacs. The REMY MARTIN trademark is used to designate each cognac in the following collection: REMY MARTIN VSOP, REMY MARTIN XO, REMY MARTIN 1738 ACCORD ROYAL, REMY MARTIN CLUB, REMY MARTIN TERCET and LOUIS XIII DE REMY MARTIN.

REMY MARTIN is one of the most popular cognac brands in the world.

The disputed domain name <remymartin.fun> was registered on March 23, 2022 and resolves to a registrar parking page.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The disputed domain name <remymartin.fun> is identical to the Complainant's trademark REMY MARTIN®. The disputed domain name includes it in its entirety.

The addition of the new gTLD suffix ".FUN" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

Indeed, as reminded in the WIPO Overview 3.0 §1.11.1, "the applicable Top Level Domain ("TDL") 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 confusion similarity test".

Finally, the Complainant's rights over the term have been confirmed by previous decisions. For instance:

- CAC Case No. 103829, E. REMY MARTIN & C° v. khaled hosuuun<remymartin.link>;
- WIPO Case No. DSE2019-0032, E. Remy Martin & Co v. C. L. <remymartin.se>;
- WIPO Case No. D2017-2102, E. Remy Martin & C v. Zhang Xiao <remymartin.sale>.

The Respondent does not have any rights or legitimate interest in the disputed domain name

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 Respondent is not known by the disputed domain name. 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. For instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Complainant 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 trademarks REMY MARTIN®, or apply for registration of the disputed domain name by the Complainant.

The disputed domain name resolves to a registrar parking page. The Complainant contends that Respondent did not use the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name.

Complainant's trademark REMY MARTIN® is well-known, recognized all over the world, and has been used for many years. Past panels have confirmed the notoriety of the Complainant and its trademark.

For instance WIPO Case No. D2017-1119, E. Remy Martin & Co. v. Global Domains Corp LLC ("The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the REMY MARTIN Mark as such trademark has been used in commerce for more than a century, is highly distinctive and very well established").

The Respondent has knowledge of the Complainant's rights prior to the registration of the disputed domain name, which is a hallmark of bad faith.

The Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

RESPONDENT:

The Respondent filed the following as a response:

"I work in athlete and sports marketing. I reserved the domain as my business pursues a marketing relationship with a famous basketball player in the United States.

Please see article below for reference of athlete Remy Martin:

<https://www.nytimes.com/>"

The attachment was a press article.

By Order of the Panel 27 April, 2022 the Respondent was asked to provide evidence of its unsubstantiated contentions within 5 days but failed to do so.

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 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 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 disputed domain name is identical to the Complainant's trade mark adding only a gTLD.

The Complainant has not authorised the Respondent to use its trade mark and the Respondent is not commonly known by the disputed domain name.

The disputed domain name contains a famous trade mark and has not been used.

The Respondent declined to provide evidence of its preparations to use the disputed domain name and did not deny actual knowledge of the Complainant and its rights.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **REMYMARTIN.FUN**: Transferred

PANELLISTS

Name	Dawn Osborne
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DATE OF PANEL DECISION	2022-04-26
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Publish the Decision
