

Decision for dispute CAC-UDRP-104587

Case number CAC-UDRP-104587

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Domain names remy-cointreau.com

Case administrator

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

Complainant

Organization REMY COINTREAU

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Office Admin

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 owner of the international trademark REMY COINTREAU No. 895405 registered on 27 July 2006 ("Complainant's Trademark").

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) Created in 1990, REMY COINTREAU is the result of the merger of holding companies of the Hériard Dubreuil and Cointreau families 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, spirits and liqueurs;

(b) the Complainant is the owner of the Complainant's Trademark;

(c) the Complainant owns and communicates on the Internet through various websites. Its main domain name is <remy-cointreau.com>, registered on 7 October 1996;

(d) the disputed domain name was registered on 9 May 2022; and

(e) under the disputed domain name there is an inactive website.

The Complainant seeks transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) disputed domain name is confusingly similar to Complainant's Trademark;

(ii) disputed domain name is also a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's Trademark;

(iii) the Respondent is not affiliated with the Complainant nor authorized by it in any way to use Complainant's Trademark. The Complainant does not carry out any activity for, nor has any business with the Respondent;

(iv) the website operated under the disputed domain name is inactive. The Complainant contends that there is no legitimate non-commercial or fair use of the disputed domain name;

(v) registering the disputed domain name with the misspelling of the Complainant's Trademarks was an intentional attempt to create confusing similarity with the Complainant's Trademarks and thus the disputed domain name has been registered and is being used in bad faith.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to the Complainant's Trademark within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant's Trademark as it only reverses the position of letters "O" and "I". Such slight spelling variation is not sufficient to avoid confusing similarity of disputed domain name to the Complainant's Trademark.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The 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, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant or has been authorized to use Complainant's Trademark. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel believes that this case is a prima facie example of typosquatting (i.e. the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors) which is one of the model situations of bad faith registration / use of a domain name (paragraph 4(b)(iv) of the Policy). As numerous previous decisions have held, typosquatting as such is evidence of such bad faith (please see, for example, WIPO Case No. D2011-1079 bwin.party services (Austria) GmbH v. Interagentur AG; WIPO Case No. D2002-0568, Go Daddy Software, Inc. v. Daniel Hadani; WIPO Case No. D2002-0423 Dell Computer Corporation v. Clinical Evaluations, WIPO Case No. D2001-0970, Briefing.com Inc v. Cost Net Domain Manager) or CAC case No. 101560 ARCELORMITTAL v. Kevin Solis.

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of 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. REMY-CIONTREAU.COM: Transferred

PANELLISTS

Name	Michal Matějka
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DATE OF PANEL DECISION 2022-06-11

Publish the Decision