

Decision for dispute CAC-UDRP-104769

Case number	CAC-UDRP-104769
Time of filing	2022-08-02 09:21:16
Domain names	remymartinclubexception.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

Organization	Domain Sales - (Expired domain caught by action winner) c/o Dynadot
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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 owner of several trademark registrations for the wording "REMY MARTIN" since the '60s, including international trademarks n. 236184.

The Complainant also owns the domain name <remymartin.com> since 1997.

FACTUAL BACKGROUND

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

The Complainant is a well-known company which produces premium quality cognacs and owns the trademark REMY MARTIN, subject of many national and international trademark registrations all over the world.

The Respondent has registered the disputed domain name <remymartinclubexception.com> on July 20, 2022, which, as of this day, is being used in connection with a SEDO parking page in which the disputed domain name is offered for sale.

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 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

1. IDENTICAL OR CONFUSINGLY SIMILAR

The Panel finds that the disputed domain name is identical to the trademark "REMY MARTIN", since it exactly reproduces such distinctive sign, with the mere addition of the terms "CLUB EXCEPTION".

It is quite clear that the addition of such terms seems to be connected to the latest Complainant's filed trademark application REMY MARTIN CLUB EXCEPTION and - even if not - they do not change the overall impression of the designation as being connected to the Complainant's trademark "REMY MARTIN".

Taking also into account the previous UDRP and CAC decisions that confirmed the rights of the Complainant in cases similar to the present one, the disputed domain name appears to be confusingly similar to the Complainant's earlier registered rights.

2. NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark "REMY MARTIN", or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant also affirms that the Respondent is not commonly known by the disputed domain name.

It is undeniable that the Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. 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.

Given all the above, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

3. THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

As a matter of fact, offering for sale the disputed domain name is an evident indication of commercial purpose.

As demonstrated by the Complainant, the trademark "REMY MARTIN" is deemed well-known and highly distinctive. In this regard, it is hard to believe that the Respondent was not aware of the registration and the use of the Complainant's trademarks before the registration of the disputed domain name.

In the absence of a response from the Respondent and given the reputation of the Complainant and its trademarks, the Panel infers that the Respondent had the Complainant's trademark "REMY MARTIN" in mind when registering the disputed domain name. Consequently, the Panel believes that the same was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. REMYMARTINCLUBEXCEPTION.COM: Transferred

PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION 2022-09-01

Publish the Decision
