

Decision for dispute CAC-UDRP-105290

Case number	CAC-UDRP-105290
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Time of filing	2023-03-21 09:28:14
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Domain names	louis13luxury.com
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Case administrator

Name	Olga Dvořáková (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	Sun Xianchen
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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

Complainant has provided evidence of multiple trademark registrations for the LOUIS XIII sign in several countries, among which:

- International trademark No. 629594, LOUIS XIII DE REMY MARTIN, dated of January 4, 1995, duly renewed, covering services in classes 33;
- International trademark No. 623068, LOUIS XIII BRAND, dated of August 19, 1994, duly renewed, covering services in classes 33;
- International trademark No. 1601269, LOUIS XIII, dated of December 17, 2020 covering goods and services in classes 3, 5, 9, 14, 16, 18, 20, 21, 25, 26, 29, 30, 31, 32, 34, 35, 39.

In addition, Complainant has registered on December 17, 2012 the domain name <louisxiii-cognac.com>.

FACTUAL BACKGROUND

Complainant is E. REMY MARTIN & C°, a French company founded in 1724, specializing in production of premium quality cognac.

Complainant is linked to the REMY COINTREAU Group known internationally for the production and distribution of alcoholic beverages worldwide.

For two consecutive years, in 2018 and 2019, trademark "LOUIS XIII" has been ranked number one in the well-known classification of luxury trademarks in the "Best Luxury Drinks Brand" and "Best Ultra Luxury Cognac" categories organized annually by THE HURUN RESEARCH INSTITUTE in China.

The Disputed Domain Name, <louis13luxury.com>, was registered on February 22, 2023, with Registrar NameCheap, Inc. and redirects to an online shoe store which sells sneakers at low price.

PARTIES CONTENTIONS

1. Complainant

First and foremost, Complainant alleges that the Disputed Domain Name is confusingly similar to its trademarks LOUIS XIII as it includes Complainant's trademarks in its entirety.

Complainant claims that the substitution of the Roman numerals « XIII » for the Arabic numerals « 13 » and the addition of the generic term "LUXURY" does not prevent a discovery of similarity between the Disputed Domain Name and Complainant's trademarks (see *E. Remy Martin & C v. Christopher MacNaughton*, WIPO case No. D2018-2106). According to Complainant, the addition of the term "LUXURY" emphasizes the likelihood of confusion between the Disputed Domain Name and its trademarks. Indeed, Complainant's trademarks target Chinese consumers who are used to luxury products.

Complainant adds the generic Top-Level Domain ("gTLD") ".com" has no effect on whether the domain name is identical or confusingly similar to a trademark according to previous UDRP decisions (see *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A*, WIPO Case No. D2006-0451).

Secondly, Complainant claims that Respondent has no rights or legitimate interests in this Disputed Domain Name. Indeed, Complainant asserts that Respondent is not commonly known by the Disputed Domain Name.

Complainant states that it has not granted any license nor authorization to Respondent to register the Disputed Domain Name and that there has been no relationship of any kind between Complainant and Respondent.

Complainant also asserts that the Disputed Domain Name resolves to an online shoe store which sells sneakers at low price. Respondent is identified as "Allikesneakers" without any reference to registered term "Louis 13 Luxury". According to Complainant, it is used to promote unrelated services, which does not constitute rights or legitimate interests on the Disputed Domain Name.

Finally, Complainant concludes that Respondent registered and used the Disputed Domain Name in bad faith.

Complainant's trademarks and its domain name <louisxiii-cognac.com> were registered several years before the registration of the Disputed Domain Name.

Moreover, a prompt search on internet illustrates the strong link between the term "LOUIS13LUXURY" and Complainant's activities. Relying on the notoriety of its LOUIS XIII trademarks, Complainant asserts that Respondent could not have ignored Complainant's trademarks at the time of the registration and during the use of the Disputed Domain Name.

Complainant states that the use of the Disputed Domain Name for unrelated services illustrates Respondent's intent to create confusion and thus bad faith in the registration and use of the Disputed Domain Name.

2. Respondent

No administratively compliant Response has been filed.

RIGHTS

According to paragraph 4(a)(i) of the Policy, Complainant must prove that the disputed domain name is confusingly similar to a registered trademark in which Complainant has rights.

Complainant has provided evidence proving its rights in the LOUIS XIII trademarks which are known in China.

Moreover, substituting the Roman numerals "XIII" for the Arabic numerals "13" does not prevent creating a similarity.

The addition of the generic term "LUXURY" does not distinguish the Disputed Domain Name from Complainant's trademarks, on the contrary, it reinforces this similarity. Indeed, Complainant's trademarks targets consumers who are used of this type of luxury products. By adding this generic term, the link is clearly established with the Complainant's trademarks.

The Panel agrees that the LOUIS XIII trademark is entirely reproduced by the Disputed Domain Name. The well-established UDRP case-law emphasizes that confusing similarity is established when the Disputed Domain Name fully reproduces a trademark (see sections 1.7 and 1.8 of WIPO Policy 3.0).

The addition of the generic term Top-Level Domain ("gTLD") ".com" required for the registration of domain name is not relevant and must be set aside to determinate the identity or similarity between a domain name and a trademark.

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Under Policy paragraph 4(a)(ii), Complainant must first make out a *prima facie* case showing that Respondent lacks rights and legitimate interests in respect to the Disputed Domain Name and then the responsibility of providing proof shifts to Respondent to come forward with, evidencing rights or legitimate interests. If Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. In the current case, Respondent did not submit arguments in response to the complaint.

Complainant and Respondent have no relationship of any kind, Respondent is not related to Complainant and has not been authorized by a license to use the Complainant's trademarks or to register a domain name incorporating them.

A Respondent was not commonly known by a disputed domain name when the WHOIS information was not similar to the disputed domain name.

Futhermore, on the Whois record, Respondent is not commonly known by the Disputed Domain Name but under the name "Allikesneakers".

As a result, Respondent cannot claim prior rights or legitimate interests in the Disputed Domain Name <louis13luxury.com> as Complainant's trademarks previously registered.

The Disputed Domain Name, which incorporates Complainant's trademarks, redirects to an online shoe store which sells sneakers at low price. Respondent provided no evidence of a reputation based on it.

Considering all these factors, the Panel finds that Respondent has no rights or legitimate interests concerning the Disputed Domain Name, and the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

BAD FAITH

To fulfill the third requirement of the Policy, Complainant must prove that the Disputed Domain Name was registered and used in bad faith.

1) Registration in bad faith

Bad faith can be found where Respondent "knew or should have known" of Complainant's trademark rights and nevertheless registered a domain name in which they had no rights or legitimate interests.

Complainant is a company founded in 1724, its trademarks consisting of or including the word "LOUIS XIII" were registered at least in 1995, about twenty years before the Disputed Domain Name was registered.

Futhermore, Complainant has submitted evidence of its reputation in the relevant territory as a luxury trademark. Indeed, Complainant's trademarks have been ranked among luxury trademarks. The link between Complainant's trademarks and luxury is well established.

It is proven that simple internet searches associating the term "LOUIS XIII" with the word "luxury" will lead to Complainant's trademarks being listed in the first results.

Moreover, Complainant sells products related to its trademarks on the website <https://louisxiii-cognac.com/>.

Considering these circumstances, the Panel found it implausible that Respondent was not aware of these trademarks before registering.

2) Use in bad faith

The Disputed Domain Name is not used for any *bona fide* offerings. Circumstances of the case reveal Respondent's intention to attract users to its website for commercial purposes by using the Disputed Domain Name, creating a strong likelihood of confusion with Complainant's trademarks.

The website associated to the Disputed Domain Name is an online shoe store which sells sneakers at low price. Using a disputed

domain name to intentionally divert traffic away from Complainant's website is evidence of bad faith.

Respondent is using Complainant's trademarks to attract clients and thus strengthen its commercial gains. Due to this misleading of its clients and the loss of potential new clients, Complainant is likely to suffer significant damage to its activity.

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

Complaint was filed with the CAC on March 16th, 2023. On the same day, the CAC transmitted a request for registrar verification to the Registrar by email. The CAC sent an email communication to Complainant, on March 21th, 2023, providing information disclosed by the Registrar. Complainant filed an amendment to the Complaint within the appointed deadline.

In accordance with the rules, the CAC formally notified Respondent of Complaint, and the proceedings commenced on March 21th, 2022. Respondent did not submit any response. Respondent's default was notified on April 12th, 2023.

The CAC appointed Nathalie Dreyfus as the sole panelist in this matter on April 12th, 2023. The Panel found that it was properly constituted and submitted the Statement of Acceptance and Declaration of Impartiality and Independence.

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

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <louis13luxury.com> be transferred to Complainant.

- 1/ The Panel finds that the Disputed Domain Name is confusingly similar to Complainant's trademarks.
- 2/ The Panel recognizes that the Disputed Domain Name was registered in bad faith based on the fact that Respondent must have been aware of the existence of Complainant's trademarks, which are well known in the territory concerned. In addition, the Disputed Domain Name is used in bad faith because it deliberately diverts traffic from the Complainant's website.
- 3/ The Panel finds that Complainant has been successful in proving that Respondent is not commonly known by the Disputed Domain Name. The Disputed Domain Name has been used to take advantage of the Complainant's trademarks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **louis13luxury.com**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION 2023-04-21

Publish the Decision