

ADMINISTRATIVE PANEL DECISION

Jas Hennessy & Co. v. Dmitriy Matveychuk
Case No. DCC2022-0009

1. The Parties

The Complainant is Jas Hennessy & Co., France, represented by Nameshield, France.

The Respondent is Dmitriy Matveychuk, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <hennessy24.cc> (the “Domain Name”) is registered with Nicenic International Group Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2022. On August 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on August 12, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on August 16, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 28, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 3, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Further Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. Noting that the Respondent's disclosed location appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the postal address provided by the Respondent to the Registrar appears to be inaccurate, which would have made it impossible for the courier to deliver the Center's written communication. Be that as it may, the Center transmitted the notification of the Complaint to the named Respondent, *inter alia* through an email to the Respondent at its email address as registered with the Registrar. There is no evidence that the case notification email to the Respondent's email address was not successfully delivered. Therefore, it appears that the Respondent has received notification of the Complaint in accordance with paragraph 2 of the Rules and the Respondent would have been able to formulate and file a Response had it wished to do so.

The Panel notes that the Domain Name resolves to an online shop offering drugs such as marijuana and cocaine. The Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the Domain Name shall be referred to the jurisdiction of the courts of the location of the principal office of the concerned registrar. In this case, the principal office of the Registrar, Nicenic International Group Co, Limited, is in Hong Kong, China. In addition, the website seems to be in the Russian language and prices are displayed in Russian rubles and not in the Ukrainian currency. This may indicate that the Respondent is located outside Ukraine.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no serious doubt that the Respondent registered and has used the Domain Name in bad faith. It is inconceivable that the Respondent has a legitimate interest in the Domain Name. The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

5. Factual Background

The Complainant is a cognac house with headquarters in Cognac, France. As a part of the LVMH (Louis Vuitton Moët-Hennessy) group, the Complainant sells about 70 million bottles every year worldwide.

The Complainant holds several international trademark registrations for HENNESSY, such as International trademark No. 315189 registered and renewed since June 16, 1966, and International trademark No. 477604 registered and renewed since July 1, 1983.

The Complainant owns many domain names, such as <hennessy.com> registered since June 26, 1996 and <hennessy.fr> registered since February 17, 1997.

The Domain Name was registered on May 23, 2022. At the time of the Complaint, and at the time of drafting the Decision, the Domain Name resolves to an online shop offering drugs such as marijuana, heroin and cocaine.

6. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations. The Complainant argues that the Domain Name is confusingly similar to the Complainant's trademark. The Domain Name incorporates the Complainant's mark with the addition of the number "24". It is not sufficient to escape a finding of confusing similarity.

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark. The Respondent is not commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made any use of the Domain Name in connection with a *bona fide* offering of goods or services or legitimate noncommercial or fair use. The Domain Name has resolved to a website that is dedicated to the sale of illegal drugs. It is not *bona fide* use.

The Complainant believes the Respondent must have known of the Complainant's trademark when the Respondent registered the Domain Name. It is inconceivable that the Respondent was not aware of the Complainant's rights. Moreover, the Domain Name resolves to an online shop dedicated to sale of illegal products. This is further evidence of bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

7. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark HENNESSY. The test for confusing similarity involves the comparison between the trademark and the Domain Name. In this case, the Domain Name incorporates the Complainant's trademark with the addition of "24". The addition does not prevent a finding of confusing similarity; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the Top-Level Domain ("TLD"); see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register the Domain Name containing the Complainant's trademark or otherwise make use of its mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. There is no evidence that the Respondent has made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. Rather, the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent, see section 2.13.1 of [WIPO Overview 3.0](#).

The Panel finds that the Complainant has made out an unrebutted *prima facie* case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the Complainant's prior trademark registrations and presence in the market, the Panel finds it likely that the Respondent was aware of the Complainant when the Respondent registered the Domain Name. The Domain Name resolves to an online shop offering drugs. This is evidence of bad faith registration and use under paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <hennessy24.cc>, be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 10, 2022