

ADMINISTRATIVE PANEL DECISION

E. Remy Martin & C° v. Privacy Protection / Derek Broman
Case No. DME2022-0017

1. The Parties

The Complainant is E. Remy Martin & C°, France, represented by Nameshield, France.

The Respondent is Privacy Protection, United States of America (“United States” or “U.S.”) / Derek Broman, United States.

2. The Domain Name and Registrar

The disputed domain name <remymartin.me> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022. On August 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 19, 2022, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 30, 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 30, 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 September 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 26, 2022.

The Center appointed José Pio Tamassia Santos as the sole panelist in this matter on October 17, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Founded in 1724, the Complainant is a France based company and a branch of the REMY COINTREAU Group engaged in producing and distributing alcoholic beverages worldwide.

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

Nowadays the Complainant is one of the most popular cognac brand in the world and a symbol of the French lifestyle all around the world where 95% of the production is sold. The fame of the REMY MARTIN name associated to its CENTAUR logo design has spread gradually from the West to the East and has become a benchmark of quality.

The trademark REMY MARTIN was officially registered by the Complainant for the first time in France in 1877.

The Complainant owns numerous trademark registrations with the trademark REMY MARTIN in several countries, such as:

- The International trademark REMY MARTIN n° 236184 registered since October 1, 1960;
- The U.S. trademark REMY MARTIN n° 749501 registered since May 14, 1963;
- The International trademark REMY-MARTIN n° 457204 registered since December 16, 1980;
- The International trademark REMY MARTIN n° 508092 registered since December 1, 1986;
- The International trademark REMY MARTIN n° 1021309 registered since September 18, 2009.

Furthermore, the Complainant owns and communicates on the Internet through various websites worldwide. The main one is <remymartin.com> registered on September 25, 1997.

The disputed domain name <remymartin.me> was registered on August 7, 2022 and resolves to a “dan.com” page where the domain name is offered for sale for USD 955.

5. Parties' Contentions

A. Complainant

The Complainant states that the Respondent registered without any authorization the disputed domain name <remymartin.me> on August 7, 2022.

The Complainant states that the disputed domain name <remymartin.me> is identical to its trademark REMY MARTIN and its domain names associated.

Finally, the Complainants states that the Respondent has no rights or legitimate interests in the disputed domain name and has been registered and is being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides specific remedies to trademark owners against registrants of domain names where the owner of the mark (*i.e.*, the complainant) proves each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

The Complainant has the burden of proof, by a preponderance of the evidence, in respect to each element in paragraph 4(a) of the Policy.

The Respondent, having failed to respond in the present proceeding, is in default, and in accordance with paragraph 14(b) of the Rules, "the panel shall draw such inferences [...] as it considers appropriate".

A. Identical or Confusingly Similar

The Complainant states that the disputed domain name is identical to its trademark REMY MARTIN and its domain names associated. Indeed, the Complainant contends that the addition of the country code Top-Level Domain ("ccTLD") suffix ".me" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark.

Past Panels commonly stated that the TLD is not relevant in the appreciation of confusing similarity. See *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#), ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

Taking out the ccTLD in this case, the Panel finds that the disputed domain name is identical to the Complainant's trademark. The first element of the Policy, therefore, has been met.

B. Rights or Legitimate Interests

According to the *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#), 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, the 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 Complainant contends that the Respondent is not known as 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.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. 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 points to a "dan.com" page where the domain name is offered for sale for USD 955. The Complainant contends this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interest.

Finally, considering the absence of response by the Respondent and the Complainant's contentions, the Panel finds that the Respondent is not making any legitimate non-commercial or fair use of the disputed domain name. Accordingly, the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The disputed domain name is identical to the Complainant's trademark REMY MARTIN. The Complainant asserts that the trademark REMY MARTIN is well-known and well recognized all over the world, and has been used for many years. Past Panels have confirmed the notoriety of the Complainant and its trademark. See *E. Remy Martin & Co. v. Global Domains Corp LLC*, WIPO Case No. [D2017-1119](#), ("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"). Thus, the Complainant contends that 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.

Moreover, the disputed domain name resolves to a "dan.com" page displaying a general offer to sell the domain for USD 955. The Complainant claims that the Respondent fails to make an active use of the disputed domain name. Past panels have held that failure to actively use a domain name is evidence of bad faith registration and use. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.3.

Furthermore, the Complainant contends that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use. See [WIPO Overview 3.0](#), section 3.1.

Finally, the Panel also notes that the Respondent has already been involved in another UDRP case. See *Biofarma v. Derek Broman*, WIPO Case No. [DCO2022-0041](#).

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

7. 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 <remymartin.me> be transferred to the Complainant.

/José Pio Tamassia Santos/

José Pio Tamassia Santos

Sole Panelist

Date: October 31, 2022