

Decision for dispute CAC-UDRP-100548

Case number	CAC-UDRP-100548
Time of filing	2013-01-08 10:11:37
Domain names	louisxiiicognac.com, remymartinlouisxiii.com , buyremymartin.com

Case administrator

Name	Lada Válková (Case admin)
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Complainant

Organization	E. REMY MARTIN & C°
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Complainant representative

Organization	Nameshield (Laurent Becker)
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Respondent

Name	Fred Frampton
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trade mark registrations:

REMY MARTIN International Registration No. 203744
REMY MARTIN International Registration No. 236184
REMY MARTIN International Registration No. 508092
REMY MARTIN International Registration No. 552765
LOUIS XIII BRAND International Registration No. 623068
LOUIS XIII DE REMY MARTIN International Registration No. 629594
LOUIS XIII DE REMY MARTIN Europe Registration No. 1030355 30.

FACTUAL BACKGROUND

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

REMY MARTIN is a cognac brand produced by E. REMY MARTIN & C°.

E. REMY MARTIN & C° owns numerous trademark registrations for REMY MARTIN, LOUIS XIII BRAND and LOUIS XIII DE REMY MARTIN in several countries.

The numerous exchanges with the owner regarding this dispute have not succeeded in solving this problem:

From 28/03/2012 to 10/07/2012: The Respondent accepted to transfer the domain names to the Complainant but the domain names have not been transferred.

On 20/12/2012: The Complainant contacted the Respondent to transfer these domain names but the Respondent refused.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Names are 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 Domain Named (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Names have been registered and are 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

Paragraph 15 of the Rules requires the Panel to decide a complaint on the basis of the statements and documents submitted, in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

If a Party does not comply with the provision of, or requirement under the Rules, and in the absence of exceptional circumstances, the Panel shall draw such inferences therefore as it considers appropriate (paragraph 14 of the Rules).

The Respondent has failed to submit a response and consequently has not contested any of the submissions made by the Complainant. The Panel will now decide the dispute on the basis of the factual statements submitted and the documents made available by the Complainant to support its contentions.

Paragraph 4 a. of the Policy requires the Complainant to prove each of the following three elements:

- (i) the domain name is identical or confusingly similar to a trade mark or a service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of numerous international trade mark registrations for REMY MARTIN, LOUIS XIII BRAND and LOUIS XIII de REMY MARTIN. These marks predate the registration of the

disputed domain names on 16 March 2012.

When considering whether the disputed domain names are confusingly similar to the trade marks in which the Complainant has rights, it is well established that the generic top level suffix .com may be disregarded.

The disputed domain names:

(i) louisxiicognac.com is comprised of the Complainant's trade mark LOUISXIII and the descriptive word 'cognac' ;

(ii) remymartinlouisxiii.com is comprised of a combination of the words REMY MARTIN and LOUIS XIII which are the distinctive words found in the Complainant's registered trade marks REMY MARTIN; LOUIS XIII BRAND and LOUIS XIII de REMY MARTIN; and

(iii) buyremymartin.com is comprised of the Complainant's trade mark REMY MARTIN and the generic word 'buy'.

As has been held in the case of Sony Kabashiki Kaisha v Inja, Kil (WIPO /D2000-149) "[n]either the addition of the ordinary descriptive word...nor the suffix ".com" detract from the overall impression of the dominant part of the name in each case, namely the trade mark SONY".

The distinctive words used in the disputed domain names are the Complainant's mark REMY MARTIN and the words LOUIS XIII found in the Complainant's marks LOUIS XIII BRAND and LOUIS XIII de REMY MARTIN. Adding generic or descriptive words to these well-known marks, or combining the distinctive elements of the Complainant's marks is unlikely to avoid confusion.

The Panel finds that the disputed domain names louisxiicognac.com; remymartinlouisxiii.com and buyremymartin.com, are confusingly similar to the Complainant's trade marks LOUIS XIII BRAND; LOUIS XIII de REMY MARTIN and REMY MARTIN.

B. Rights or legitimate interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in respect of the domain names (paragraph 4 a.(ii) of the Policy).

In the absence of a Response none of the grounds set out in paragraph 4 c. of the Policy, by which a Respondent may demonstrate rights or legitimate interests in the domain names have been asserted.

The Respondent has not disputed the Complainant's contentions that the Complainant is not affiliated with nor has it authorised the Respondent to use any of its marks. The Respondent does not appear to be using the domain names in connection with a bona fide offering of goods and services, or making a legitimate non-commercial or fair use of the domain names.

The Complainant has long standing rights in the trade marks which predate the registration of the domain names. There appears to be no reason why the Respondent would incorporate the Complainant's well known marks in the disputed domain names and the Respondent has not submitted any reason for doing so.

On the basis of the evidence submitted and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain names.

C. Registered and used in bad faith

The third element that the Complainant must prove is that the disputed domain names have been registered and are being used in bad faith (paragraph 4 a.(iii) of the Policy).

The websites linked to the domain names buyremymartin.com and remymartinlouisxiii.com each have sponsored listings to

other sites. The domain name louisxiicognac.com is in parking page.

The disputed domain names were all registered on the same day. The Respondent must have known of the Complainant's rights when he registered the domain names. There appears to be no reason why the Respondent would incorporate the Complainant's well known marks in the disputed domain names unless seeking to create the impression of an association with the Complainant.

The Respondent has not disputed the Complainant's contention that the Respondent registered the disputed domain names for the purpose of commercial gain and in order to prevent the Complainant from reflecting its trademark in the corresponding domain names.

On the basis of the uncontested evidence submitted by the Complainant the Panel finds that the disputed domain names have been registered and are 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. **LOUISXIICOGNAC.COM**: Transferred
2. **REMYMARTINLOUISXIII.COM** : Transferred
3. **BUYREMYMARTIN.COM**: Transferred

PANELLISTS

Name	Mrs Veronica Marion Bailey
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DATE OF PANEL DECISION	2013-02-26
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Publish the Decision
