

Decision for dispute CAC-UDRP-105054

Case number	CAC-UDRP-105054
Time of filing	2022-12-14 09:23:51
Domain names	remymartinletape.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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	Ali Aslan
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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 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.

The Complainant is the owner of the French trademark REMY MARTIN L'ETAPE® n°4805203 registered since January 28, 2022 and has applied for US trademark REMY MARTIN L'ETAPE on November 16, 2022.

FACTUAL BACKGROUND

The Complainant is a France based company specialized in the production of premium quality cognacs founded in 1724. It is a branch of the REMY COINTREAU Group engaged in producing and distributing alcoholic beverages worldwide. The REMY MARTIN trademark has been used to designate each cognac of the whole collection: REMY MARTIN VSOP, REMY MARTIN XO, REMY MARTIN CLUB, REMY MARTIN TERCET, LOUIS XIII DE REMY MARTIN.

Currently, the Complainant is one of the most popular cognac brands in the world and a symbol of the French lifestyle all around the world where 95% of the production is sold. The trademark REMY MARTIN was officially registered by the Complainant for the first time in France in 1877.

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 <remymartinletape.com> was registered on November 19, 2022 and it is being offered for sale for \$4,995 USD.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

In accordance with paragraph 4(a) of the Policy, the Complainant must prove:

- 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 in respect to each element in paragraph 4(a) of the Policy, and if the Respondent failed to respond in the present proceeding, in accordance with paragraph 14(b) of the Rules, "the panel shall draw such inferences [...] as it considers appropriate".

A. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The Panel notes that the disputed domain name <remymartinletape.com> includes the Complainant's trademarks in its entirety. The disputed domain name is, hence, identical to the Complainant's trademark REMY MARTIN and most specifically to the REMY MARTIN L'ETAPE mark (the apostrophe not being a valid character for domain name registration). See McDonald's Corporation v. Lei Wang, WIPO Case No. D2012-0624).

The Complainant explained and provided sufficient evidence to support the veracity of its statements, and has, therefore, 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).

B. The Respondent has no rights or legitimate interests in respect of the disputed domain name

There is no evidence before the Panel to suggest that the Respondent is known by the name "remymartinletape".

Additionally, the Panel notes, as stated by the Complainant, that the Respondent is not related in any way with the Complainant (no business nor license or authorization has been granted to the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name by the Complainant). The Panel acknowledges that the Respondent has failed to respond to the Complainant's contentions, nor has he submitted any comments to disprove the Complainant's statements. The Panel has analysed the website active under the disputed domain name which points to a "dan.com" page where the disputed domain name is offered for sale for USD \$4,995 USD. The Complainant contends this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interest. Based on the above statements, 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).

C. The disputed domain name was registered and is being used in bad faith

The Panel observes that the Complainant REMY MARTIN is known and its brands have been used for many years. The Panel also notes that past panels have confirmed the notoriety of the Complainant and its trademark in previous UDR Decisions. See E. Remy Martin & Co. v. Global Domains Corp LLC, WIPO Case No. D2017-1119, E. Remy Martin & C° v. Privacy Protection / Derek Broman Case No. DME2022-0017). The Panel finds that the Respondent had knowledge of the Complainant's rights prior to the registration of the disputed domain name. As per the use of the disputed domain name, Paragraph 4(a)(iii), lists certain circumstances, in particular but without limitation, which shall be evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; (...). The Complainant claims that the Respondent fails to make an active use of the disputed domain name, and that past panels have held that failure to actively use a domain name as evidence of bad faith registration and use. As stated above (in point B), the Panel confirmed that the disputed domain name <remymartinletape.com> has always been redirecting to a site where the disputed domain name is offered for sale for \$4,995 USD.

Additionally, the Panel notes and agrees that the use of a privacy service together with the use of a fake address (such as it happens in the present case) are an inference of bad faith, as also found in past UDRP decisions (e.g. Natixis v. Withheld Privacy Purposes, Privacy Services / Natixis123, WIPO Case No. D2021-3060, Philip Morris USA Inc. vs. Domain Admin, Privacy Protection, WIPO Case No. 2017-0474). In the light of all the above, the Panel finds that the disputed domain name has been 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. remymartinletape.com: Transferred

PANELLISTS

Name	Laura Martin-Gamero Schmidt
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DATE OF PANEL DECISION 2023-01-22

Publish the Decision