

ADMINISTRATIVE PANEL DECISION

E. Remy Martin & C v. chenhao
Case No. D2024-0629

1. The Parties

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

The Respondent is chenhao, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <remymartin69.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 12, 2024. On February 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 19, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 19, 2024, 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 the same day.

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 February 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on March 18, 2024. 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

The Complainant is a French company, founded in 1724, engaged in producing and distributing alcoholic beverages, in particular premium quality cognacs, worldwide.

It owns trademarks in multiple jurisdictions, including:

- International trademark REMY MARTIN n° 236184 registered on October 1, 1960;
 - International trademark REMY-MARTIN n° 457204 registered on December 16, 1980;
 - International trademark REMY MARTIN n° 508092 registered on December 1, 1986,
- all three designating multiple jurisdictions, specifying goods in classes 33 or 32 and 33.

The Complainant has also registered multiple domain names, including <remymartin.com>, registered on September 25, 1997, that it uses in connection with a website where it provides information about itself and its products.

The disputed domain name was registered on February 1, 2024. At the time of filing of the Complaint, it resolved to an online store displaying the Complainant's trademark and selling what appeared to be counterfeited REMY MARTIN goods. The disputed domain name is no longer in use.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name consists of the REMY MARTIN mark in its entirety;
- the addition of the number "69" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark REMY MARTIN as it does not change the overall impression of the designation;
- the disputed domain name's generic Top-Level Domain ("gTLD") ".com" extension should be disregarded under the first element as it forms a standard registration requirement.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the Respondent is not known under the disputed domain name;
- the Complainant does not carry out any activity for, nor has any business with the Respondent;
- neither a license nor an authorization has been granted to the Respondent to make any use of the Complainant's trademarks REMY MARTIN, or to apply for the registration of the disputed domain name.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant asserts that:

- the trademark REMY MARTIN is well known all over the world, and has been used for so many years;
- given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks;
- the disputed domain name resolves to an online store displaying the Complainant's trademark and selling unauthorized or counterfeited REMY MARTIN goods;
- therefore, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his websites.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

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

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the number "69" may bear on assessment of the second and third elements, the Panel finds the addition of the number "69" does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy.

The Panel therefore finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of

proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the record, the Complainant asserts that the Respondent has used the disputed domain name for a website offering counterfeits of the Complainant's REMY MARTIN products, which has not been rebutted by the Respondent. Even if the website were selling genuine products of the Complainant, the Panel notes it did not display any accurate and prominent disclaimer regarding the lack of relationship between the Respondent and the Complainant. [WIPO Overview 3.0](#), section 2.8.

Panels have held that the use of a domain name for illegal activity, here claimed sale of counterfeit goods, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel therefore finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Complainant provided evidence of multiple trademark registrations for the REMY MARTIN mark that predate the registration of the disputed domain name.

In light of the extensive use of the Complainant's REMY MARTIN trademark and the fact that the disputed domain name resolved to a website that apparently offered counterfeit products of the Complainant, the Panel has no doubt that the Respondents was aware of the Complainant and the Complainant's trademark rights when registering the disputed domain name.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Respondent registered the disputed domain name with the bad faith intent to attract Internet users, for commercial gain, by creating a likelihood confusion with the Complainant. Moreover, the website has deceived consumers with its apparently counterfeit products.

Panels have held that the use of a domain name for illegal activity, here claimed sale of counterfeit goods, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel therefore finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

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 <remymartin69.com> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: April 1, 2024