

ADMINISTRATIVE PANEL DECISION

E. Remy Martin & C v. da da, da pao da pao
Case No. D2024-1213

1. The Parties

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

The Respondent is da da, da pao da pao, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <remy-martin5.vip> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2024. On March 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 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 (DA PAO DA PAO) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 26, 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 in English on March 26, 2024.

On March 26, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 26, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on April 2, 2024. In accordance with the

Rules, paragraph 5, the due date for Response was April 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 23, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on May 6, 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 was founded in 1724 in France and is 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 Complainant also states that its REMY MARTIN brand is one of the most popular cognac brands in the world and a symbol of the French lifestyle all around the world.

The Complainant has a large international trademark portfolio for the REMY MARTIN marks (and variations on that mark) in different jurisdictions, including but not limited to International trademark registration for REMY MARTIN, No. 508092, registered since December 1, 1986; and International trademark registration for REMY-MARTIN, No. 457204, registered since December 16, 1980. The Complainant also has a strong online presence and is the owner of various domain names including the abovementioned marks, including <remymartin.com>, registered in 1997.

The disputed domain name was registered on March 9, 2024, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name has only directed to an inactive webpage.

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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its registered trademarks as it incorporates the REMY MARTIN mark entirely. The Complainant also claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name: the Respondent is not a licensee of the Complainant, and the Complainant has not given the Respondent any permission to register the trademark as a domain name, nor is there any evidence that the Respondent has been commonly known by the disputed domain name, the Respondent has not used, or prepared to use, the disputed domain name in connection with a bona fide offering of goods and/or services or for any legitimate noncommercial or fair purpose.

The Complainant states that it has been using its trademark REMY MARTIN for a very long time. Consequently, the Complainant considers that the Respondent could not have been unaware about the existence of the Complainant's trademarks at the time the disputed domain name was registered. In addition, the Complainant stresses that the disputed domain name only directs to an inactive website. The Complainant argues that the passive holding of the disputed domain name by the Respondent constitutes bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the English language is the language most widely used in international relations and is one of the working languages of the Center; the fact that the disputed domain name is formed by words in Roman characters (ASCII) and not in Chinese script; and the allegation that in order to proceed in Chinese, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of the proceeding. The use of Chinese in this case would therefore impose a burden on the Complainant which must be deemed significant in view of the low cost of the proceeding.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the entirety of the Complainant's mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term here, "5" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel 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.

Furthermore, the Panel notes that the disputed domain name directs to an inactive webpage and that the Respondent has apparently not used the disputed domain name in connection with a bona fide offering of goods or services, nor any credible preparations for that purpose. In this regard, the Panel finds that holding a domain name passively, without making any use of it, does not confer any rights or legitimate interests in the disputed domain name on the Respondent under the circumstances of this case (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Based on the available record, the Panel 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 Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant’s well-known, intensely used, and distinctive trademarks for REMY MARTIN. The Panel refers to a number of prior decisions under the Policy which have recognized the well-known nature of these trademarks, see for instance *E. Remy Martin & Co. v. Global Domains Corp LLC*, WIPO Case No. [D2017-1119](#). In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. Furthermore, the Panel also notes that the Complainant’s trademarks were registered many years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain name. In the Panel’s view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use in bad faith, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its

registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and strong reputation of the Complainant's trademark, the Respondent's use of incomplete contact details, and the unlikelihood of any good faith use of the disputed domain name by the Respondent and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, 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 <remy-martin5.vip> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: May 15, 2024