Panel Decision for dispute CAC-ADREU-008366

Case number	**CAC-ADREU-008366**
Time of filing	**2022-09-25 13:07:50**
Domain names	**remy-cointraeu.eu**

Case administrator

Organization	**Denisa Bilík (CAC) (Case admin)**

Complainant

Organization	

Respondent

Name	**Nelson thomas**

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

No other proceeding, according to the Complainant.

FACTUAL BACKGROUND

Created in 1990, the Complainant is the result of the merger of holding companies of the Hériard Dubreuil and Cointreau families which controlled respectively the E. Remy Martin & C° Company and the Cointreau Company. It is also the result of successive alliances between companies operating in the same sector of wines and spirits.
The Complainant is in the business of production and the sale of cognacs, spirits and liqueurs.

The Complainant owns several trademarks comprising the terms “REMY COINTREAU”, such as the international trademark REMY COINTREAU® n°895405 registered on July 27, 2006 with basic registration in France under number 06 3 409 2006 from July 13, 2006.

The Complainant owns and communicates on the Internet through various websites. Its main domain name is <remy-cointreau.com>, registered on October 7th, 1996.

The Respondent is an individual residing in Romania, Bucharest.
The disputed domain name <remy-cointraeu.eu> has been registered by the Respondent on May 27th, 2022 and points to a parking page.

A. COMPLAINANT

By the Complaint, the Complainant contends:

A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, as the disputed domain name is confusingly similar to its trademark REMY COINTREAU®. Indeed, the domain name includes the trademark in its entirety, with a reversal of the letters “E” and “A”.
The reversal of the letters “E” and “A” in the trademark REMY COINTREAU® and the use of the gTLD “.COM” are not sufficient to escape the finding that the domain name <remy-cointraeu.eu> is confusingly similar to the Complainant’s trademark and it does not change the overall impression of the designation as being connected to the trademark REMY COINTREAU®, but constitutes a misspelled version of the Complainant’s registered trademark REMY COINTREAU®, which represents a clear case of "typosquatting“, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark.
The addition of the ccTLD “.EU” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

B. The Respondent has no rights or legitimate interests in respect of the domain name(s) as:

- the Respondent is not identified in the Whois database as the disputed domain name. - the Respondent is not affiliated with nor authorized by the Complainant in any way.
- the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- the Complainant does not carry out any activity for, nor has any business with the Respondent.
- the Complainant has granted neither license nor authorization to the Respondent to make any use of the Complainant's trademark REMY COINTREAU®, or apply for registration of the disputed domain name.
- the Respondent uses the disputed domain name to pass itself off as one of the Complainant's employees, in order to receive payment in place of the Complainant.

Using the domain name in this manner is neither a bona fide offering of goods or services.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

C. The domain name was registered and is being used in bad faith, as
- the disputed domain name <remy-cointraeu.eu> is confusingly similar to its distinctive and well-known trademark REMY COINTREAU®.
- all the Google results of a search of the denomination "REMY COINTRAEU" refer to the Complainant and the disputed domain name has been used in a phishing scheme.
- the use of the Complainant's trademark in the disputed domain name gives rise to the inference that the Respondent ought to have registered the disputed domain name for its trademark value.
- the Respondent has used the domain name in a phishing scheme, as it attempted to pass of as one of the Complainant's employees.
The Respondent used the disputed domain name in bad faith, as it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

B. RESPONDENT

Although properly summoned, the Respondent have failed to submit a Response.

DISCUSSION AND FINDINGS

According to Paragraph B11(d)(1) of the ADR Rules, the Panel shall issue a decision granting the remedies requested under the Procedural Rules in the event that the Complainant proves in ADR proceeding where the Respondent is the holder of the domain name in respect of which the Complaint was initiated, that:
(i) the domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by national and/or Community law and; either
(ii) the domain name has been registered by the Respondent without rights or legitimate interest in the name; or
(iii) the domain name has been registered or is being used in bad faith.
Article 21(1) of the Commission Regulation (EC) 874/2004 of April 28, 2004 contains similar provision to those of the ADR Rules.

In arriving to the findings in this case, the Panel has reviewed and considered both Complainant's submissions and appendixes in detail and has, based on article B7(a) of the ADR rules, further taken note of the decisions in ADR cases.

I. Condition according to Paragraph B11(d)(1)(i) of the ADR Rules

The disputed domain name includes the trademark in its entirety - dominant verbal element REMY COINTREAU®, registered internationally under number 895405, covering countries as:

The reversal of the letters "E" and "A" in the trademark REMY COINTREAU® and the use of the gTLD ".COM" are not sufficient to escape the finding that the domain name <remy-cointraeu.eu> is confusingly similar to the Complainant's trademark and it does not change the overall impression of the designation as being connected to the trademark REMY COINTREAU®.

The disputed domain name <remy-cointraeu.eu> constitutes a misspelled version of the Complainant's registered trademark REMY COINTREAU®, which is a classic case of "typosquatting". According to the "CAC .EU Overview 2.0", the domain names that contain obvious misspelling of names to which right is recognized or established by national and/or Community law are always confusingly similar to them, as "Typosquatting" is the baseline of confusion.

Moreover, the addition of the ccTLD ".EU" is not sufficient to escape the finding that the disputed domain name is confusingly similar to

the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

Therefore, the Panel considers that the Complainant has demonstrates rights in the trademark REMY COINTREAU® n°895405 registered on July 27, 2006 with basic registration in France under number 06 3 409 2006 from July 13, 2006.and accordingly finds that the disputed domain name is "identical and confusingly similar" to name in respect of which a right of the Complainant is recognized within the meaning of Paragraph B.11(d)(1) of the ADR Rules.

II. Condition according to Paragraph B11(d)(1)(iii) of the ADR Rules

Bad faith is defined in more detail in Paragraph B11(f) of the ADR Rules which contains an enumeration of the circumstances which may prove the registration or use of a domain name in bad faith. The Panel finds in this case applicable at least the circumstance provided at Paragraph B 11(f)(4) of the ADR Rules, as the circumstances of the case clearly indicate that the disputed domain name was intentionally used to attract Internet users, for commercial gain to the Respondent's website or other online location, by creating a likelihood of confusion with a name on which a right is recognised or established, by national and/or European Union law, as follows:
- the disputed domain name <remy-cointraeu.eu> is confusingly similar to its distinctive and well-known trademark REMY COINTREAU® and typosquatting is considered bad faith under "CAC .EU Overview 2.0",
- all the Google results of a search of the denomination "REMY COINTRAEU" refer to the Complainant and the disputed domain name has been used in a phishing scheme.
- the use of the Complainant's trademark in the disputed domain name gives rise to the inference that the Respondent ought to have registered the disputed domain name for its trademark value.
- the Respondent has used the domain name in a phishing scheme, as it , attempted to pass of as one of the Complainant's employees.

Since the Complainant is a France registered company and based in France, the Complainant also satisfies the general eligibility criteria set out in article 4.2(b) of Regulation (EC) No 733/2002 and referred to in article 22.11 of the Commission Regulation (EC) 874/2004. The Complainant is therefore entitled to the transfer of the disputed domain name to the Complainant.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name <REMY-COINTRAEU.EU> be transferred to the Complainant.

PANELISTS

Name	**Beatrice Onica Jarka**

DATE OF PANEL DECISION 2022-09-18

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: <remy-cointraeu.eu>

II. Country of the Complainant: France, country of the Respondent: Romania

III. Date of registration of the domain name: 27th May 2022

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. word trademark registered internationally under n°895405 registered on July 27, 2006 with basic registration in France under number 06 3 409 2006 from July 13, 2006 on respect of goods and services in classes 32,33,43

V. Response submitted: No

VI. Domain name/s is confusingly similar to the protected right/s of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
Not addressed

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes

2. There are several circumstances indicating bad faith registration and use:
- the disputed domain name <remy-cointraeu.eu> is confusingly similar to its distinctive and well-known trademark REMY COINTREAU® and typosquatting is considered bad faith under "CAC .EU Overview 2.0",
- all the Google results of a search of the denomination "REMY COINTRAEU" refer to the Complainant and the disputed domain name has been used in a phishing scheme.
- the use of the Complainant's trademark in the disputed domain name gives rise to the inference that the Respondent ought to have registered the disputed domain name for its trademark value.
- the Respondent has used the domain name in a phishing scheme, as it , attempted to pass of as one of the Complainant's employees.

IX. Other substantial facts the Panel considers relevant: already indicated

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: none

XII. If transfer to Complainant] Is Complainant eligible? Yes