1. Procedural History

On 21 February 2018, the Complainant filed a Complaint in this matter with the Hong Kong International Arbitration Centre (HKIAC) pursuant to the CNNIC ccTLD Dispute Resolution Policy (the “Policy”) implemented by CNNIC on 21 November 2014. On 22 February 2018, the HKIAC confirmed receipt of the Complaint and requested the Complainant to submit the case filing fee.

On 22 February 2018, HKIAC notified 北京光速连通科贸有限公司 (“Registrar”) of the Disputed Domain Name of the proceedings by email. On 26 February 2018, Registrar acknowledged the email of HKIAC confirming that the Disputed Domain Name is registered with Registrar, that 程飞婷 is the holder of the Disputed Domain Name, that the CNNIC ccTLD Dispute Resolution Policy (“Policy”) is applicable to the Disputed Domain Name, the language of the Disputed Domain Name is Chinese as provided by the WHOIS information in relation to the Disputed Domain Name and confirmed that the Disputed Domain Name is under Registrar lock status.

On 1 March 2018, the HKIAC sent a Written Notice of Complaint (“Notification”), together with the Complaint, to the email address of Respondent’s nominated registrant contacts for the Disputed Domain Name (as recorded in the WHOIS database). The Notification gave the respondents twenty (20) calendar days to file a Response (i.e. on or before 21 March 2018).

The Panel comprising of Dr. Shahla F. Ali as a single panelist was appointed by the HKIAC on 3 April 2018. The papers pertaining to the case were delivered to the Panel by email on the same day.

2. Factual background

According to the information submitted by the Complainant, its firm was founded in 1724, under the name of E. REMY MARTIN & C° specializing in the production and trade of distilled alcoholic beverages. Its main activity is the production of cognac whose main brand is "Remy Martin".
The Complainant has long maintained a significant presence in China. The name REMY MARTIN translated into Chinese is “人头马”. The phonetic spelling of “人头马“ in Chinese using Latin characters is “REN TOU MA.” The Complainant has sold its REMY MARTIN branded products in China for decades.

The Complainant owns and communicates on the Internet through various websites worldwide. Its primary online presence in China is “www.remymartin.cn” (registered on 17/03/2003), but The Complainant has also registered numerous domain names similar to trademark “REMY MARTIN”.

The Complainant has registered its REMY MARTIN mark and/or variations of that mark in many countries around the world including within China, where it has registered its marks REMY MARTIN, REMY MARTIN and Design, and 人头马.

The Complainant owns numerous trademark registrations with the term “REMY MARTIN” in several countries, such as:

<table>
<thead>
<tr>
<th>Trademark</th>
<th>Country</th>
<th>Registration Number</th>
<th>Date of registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>REMY- MARTIN</td>
<td>China</td>
<td>76654</td>
<td>02.12.1978</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>Hong Kong</td>
<td>19750084</td>
<td>10.04.1974</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>203744</td>
<td>02.10.1957</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>236184</td>
<td>01.10.1960</td>
</tr>
<tr>
<td>E. Rémy Martin</td>
<td>International</td>
<td>240238</td>
<td>13.02.1961</td>
</tr>
<tr>
<td>Rémy Martin Cognac GRANDE CHAMPAGNE</td>
<td>International</td>
<td>291652</td>
<td>04.12.1964</td>
</tr>
<tr>
<td>E. Rémy Martin &amp; Co</td>
<td>International</td>
<td>317940</td>
<td>28.07.1966</td>
</tr>
<tr>
<td>E. Rémy Martin &amp; Co</td>
<td>International</td>
<td>317943</td>
<td>28.07.1966</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>391168</td>
<td>08.09.1972</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>396705</td>
<td>19.03.1973</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>409600</td>
<td>06.08.1974</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>457204</td>
<td>16.12.1980</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>508092</td>
<td>01.12.1986</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>552765</td>
<td>30.03.1990</td>
</tr>
<tr>
<td>REMY MARTIN XO SPECIAL</td>
<td>International</td>
<td>581450</td>
<td>16.01.1992</td>
</tr>
<tr>
<td>REMY MARTIN</td>
<td>International</td>
<td>591095</td>
<td>28.09.1992</td>
</tr>
<tr>
<td>REMY MARTIN FINE CHAMPAGNE COGNAC VSOP</td>
<td>International</td>
<td>640827</td>
<td>04.01.1995</td>
</tr>
<tr>
<td>RÉMY MARTIN TREK</td>
<td>International</td>
<td>678995</td>
<td>09.08.1995</td>
</tr>
<tr>
<td>RÉMY MARTIN</td>
<td>International</td>
<td>681337</td>
<td>04.09.1997</td>
</tr>
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<td>RÉMY MARTIN</td>
<td>International</td>
<td>862523</td>
<td>17.10.1997</td>
</tr>
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<td>RÉMY MARTIN 1738</td>
<td>International</td>
<td>900188</td>
<td>19.09.2006</td>
</tr>
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<td>RÉMY MARTIN</td>
<td>International</td>
<td>912806</td>
<td>05.01.2007</td>
</tr>
</tbody>
</table>

Its trademark REMY MARTIN and 人头马 in Chinese characters has been widely promoted to the general consuming public in China and the rest of the world for many
years and therefore, according to the Complainant, the REMY MARTIN and 人头马 marks are widely known and recognized in China and beyond.

The phonetic spelling of 人头马 in Chinese using Latin characters is “REN TOU MA” (“as “MAN HEAD HORSE”) and describes the centaur of Remy Martin logo.

Further, the Trademark Office of The State Administration for Industry & Commerce of the People’s Republic of China (www.ctmo.gov.cn) confirmed that “人头马” (which symbolises the Chinese characters of “REMY MARTIN”) is a well-known trademark in China.

The Respondent registered the Domain Name <remy-martin.com.cn> on 6 January 2018.

On 29 January 2018, a letter of cease and desist was sent to the Respondent. The Respondent offered to sell the domain name for an amount of 3000 EUR.

The Respondents did not file a Reply with the Centre.

3. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

I. The disputed domain name is identical with or confusingly similar to the Complainant’s name or mark in which the Complainant has rights and interests;

The Complainant contends that the disputed domain name <remy-martin.com.cn> is confusingly similar to its trademarks. The trademark is reproduced in its entirety.

The addition of the dash “-” and the suffix ccTLD “.COM.CN” is not sufficient to escape the finding that the domain is confusingly similar to the trademark and does not change the overall impression of the designation as being connected to the trademark of the Complainant.

It does not avoid the likelihood of confusion between the disputed domain name <remy-martin.com.cn> and the Complainant, its trademarks and associated domain names. Prior Panels have similarly confirmed the right of the Complainant in relation to confusingly similar marks, see:

WIPO D2017-2102  E. REMY MARTIN & C° v. Zhang Xiao <remymartin.sale>;
WIPO DCC2017-0006 E. REMY MARTIN & C° v. Songguangxiu <remymartin.cc>;
WIPO D2016-0317  E. REMY MARTIN & C° v. Mark Juan <remymartinasia.com>;

Page 3
II. The holder of the disputed domain name has no legitimate right or interest over the domain name or the major part of the domain name;

The disputed domain name was registered by “程飞婷”. The Complainant contends that the Respondent is not commonly known by the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant.

The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither licence nor authorization has been granted to the Respondent to make any use, or apply for registration of the disputed domain name by the Complainant.

Moreover, since its registration, the domain name has been listed as being for sale.

In his response, the Respondent demonstrated his lack of legitimate interest by offering to the Complainant the disputed domain name for sale for an amount of 3000 EUR. Consequently, the Complainant contends that the Respondent registered the domain name in connection with offering for sale goods or services.

III. The holder of the disputed domain name registered or used the disputed domain name in bad faith

The Complainant contends that its trademark “REMY MARTIN” is so widely-known and so recognized, and has been used in China and other countries for so many years that there is no likely legitimate right or plausible use by the Respondent.

On those facts, the Complainant contends that the Respondent registered the domain name only for the purpose of selling it (3000 EUR). The Complainant contends that the price appears to be much more than the normal cost connected with the registration of a domain name.
According to article 9 (i) of the CNDRP, the Complainant contends that Respondent registered the disputed domain name only in purpose of sale, rent or otherwise transfer the domain name registration to the Complainant, and to obtain unjustified benefits.

The Complainant therefore requests for transfer of disputed domain name.

B. Respondent

The Respondent’s contentions may be summarized as follows:

The Respondents did not submit a reply.

4. Findings

As to the case, Article 8 of CNDRP provides that a complaint against a registered domain name shall be supported if the following conditions are fulfilled:

i. The disputed domain name is identical with or confusingly similar to the Complainant’s name or mark in which the Complainant has civil rights or interests;

ii. The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;

iii. The disputed domain name holder has registered or has been using the domain name in bad faith.

Article 7 of CNDRP states that the complainant and the respondent shall bear the burden of proof for their own claims. With reference to the complaint and the attached documents, the Panel of this case considers that:

Preliminary Issue: Language of Proceedings

Prior to the Panels consideration of the application of Article 8 of the CNDRP Policy to the facts in this case, one preliminary issue must be addressed: the language of the proceedings.

With regard to the language of the proceedings, according to Article 6 of the CNNIC ccTLD Dispute Resolution Policy (“Policy”), the language of the domain name dispute resolution proceedings shall be Chinese, unless otherwise agreed by the parties or determined by the Panel.

While the Panel observes that the language of the registration agreements of Respondent is Chinese, in accordance with the Rules of CNNIC ccTLD, the Panel has the authority to determine the language of the proceedings, having regard to the circumstances. Having reviewed the Complainants submission and request that English be used in the proceedings, and given that the language of the disputed domain name is English, and that the Respondent has not issued any objection, for reasons of efficiency the Panel has thus determined that the language of the proceedings is English.
Identical or Confusing Similarity

The Complainant has established its right to the “REMY MARTIN” trademark by submitting trademark registration certificates and records in a number of jurisdictions including in Mainland China. The disputed domain name <REMY-MARTIN.COM.CN> contain two elements: "REMY-MARTIN" and “CN” and finally top-level domain "com". Numerous CNNIC precedents have established that the top-level domain does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion. Similarly, “CN” is not a distinctive word and is merely descriptive. The addition of this term does nothing to minimise the risk of confusion. There is a long line of authorities which make it clear that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

The only distinctive part of the disputed domain should be "REMY-MARTIN", which is identical to the Complainant's "REMY MARTIN" trademark and trade name. This striking resemblance will no doubt mislead consumers into believing that the website is operated by or associated with the Complainant. There is no doubt that the Disputed Domain Name <REMY-MARTIN.COM.CN> completely incorporates the Complainant’s “REMY MARTIN” trademark which is the distinctive part of the Disputed Domain Name, and such incorporation makes the Disputed Domain Name confusingly similar with the Complainant’s trademark.

In conclusion, the Panel finds that the Complainant has satisfied Article 8(i).

Rights or Legitimate Interests of the Respondent

Based documentary evidence tendered in the Complaint, the Panel finds that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

If the Respondent fails to rebut this prima facie case established against the Respondent, the Complainant is deemed to have satisfied the second condition of Article 8 of CNDRP.

The Panel finds that it is established in the Complainant that (a) the Respondent has no relationship with the Complainant's business and has not been authorized or licensed to use any of the Complainant’s trademark “REMY MARTIN”; and (b) the Respondent is not known by the Disputed Domain Name. The Panel finds that the Respondent has not put the Disputed Domain Name into any bona fide use, but the Disputed Domain Name resolves to a parking page with the content “remy-martin.com.cn is a transferable Brand Assets” together with contact information for making an offer to purchase the site.

In the circumstances, the Panel finds that the Respondent has no right or legitimate interest in respect of the Disputed Domain Name; and accordingly, the second condition of Article 8 of CNDRP is met by the Complainant.

Bad Faith
Article 9 of CNDRP provides that any of the following circumstances may serve as evidence of the registration and use of a domain name in bad faith:

(a) The purpose for registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the complainant who is the owner of the name or mark or to a competitor of that complainant, and to obtain unjustified benefits;

(b) The disputed domain name holder, on many occasions, registers domain names in order to prevent owners of the names or marks from reflecting the names or the marks in corresponding domain names;

(c) The disputed domain name holder has registered or acquired the domain name for the purpose of damaging the Complainant's reputation, disrupting the Complainant's normal business or creating confusion with the Complainant’s name or mark so as to mislead the public; and

(d) Other circumstances which may prove the bad faith.

As discussed above, there is clear evidence adduced by the Complainant that the Disputed Domain Name redirects to a parking page indicating that the Disputed Domain Name is on sale.

The Panel accepts the Complainant’s submission that it is obvious from the parking page to which the Dispute Domain Name has resolved that the Respondent has registered the Disputed Domain Name for only the purpose of sale. In accordance of Article 9 (I) of the CNDRP, it is considered bad faith registration and use of domain name if the purpose of registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the complainant who is the owner of the name or mark or to a competitor of that complainant, and to obtain unjustified benefits. By the reasons aforesaid, the Panel finds that the circumstances as particularized in Article 9 (a) of CNDRP exist in the present case; and therefore finds that the Respondent has registered or has been using the Disputed Domain Name in bad faith; and accordingly, the third condition of Article 8 of CNDRP is met by the Complainant.

5. Decision

For all the foregoing reasons, in accordance with Article 14 of CNDRP, the Panel orders that the Disputed Domain Name <remy-martin.com.cn> be transferred to the Complainant.

Dr. Shahla F. Ali（夏兰）
Sole Panelist

Date: 13 April 2018