Decision for dispute CAC-UDRP-100386

Case number	CAC-UDRP-100386
Time of filing	2012-02-14 11:47:10
Domain names	pirelli-scorpion-verde.com

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	Pirelli & C. S.p.A.

Complainant representative

Organization	FASANO-Avvocati

Respondent

Name	Nina Berezovskaya

OTHER LEGAL PROCEEDINGS

N/A

IDENTIFICATION OF RIGHTS

The Complainant uses the domain name “pirelli.com” which is connected to the official web site of the Complainant, and is also the owner of the trademark for the name “PIRELLI” (Italian trademark registration n. 141020 “PIRELLI”, in class 12, among others for tyres, priority January 21,1959) and many other trademarks for PIRELLI registered internationally.

FACTUAL BACKGROUND

FACTS ASSERTED BY COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:
The Complainant is a company with its legal seat in Milan, Italy. The Complainant is a leading producer of the famous automobile tyres of that name and many other industrial products. One of its many products is named the Pirelli Scorpion Verde tyre, an environmentally-friendly summer tyre The Complainant uses the domain name “pirelli.com” and its trademark PIRELLI to promote its products and commercial activities.
The Respondent registered the domain name “pirelli-scorpion-verde.com” on September 13, 2011. The domain name has been used for an active website containing material specifically referring to and describing the Complainant’s Pirelli Scorpion Verde tyre.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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), namely its "PIRELLI" trademark .

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 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 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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "PIRELLI" as the domain name includes the whole of the Complainant's trademark with the addition only of the name of a specific product of the Complainant and a product known by the public to be that of the Complainant, leading internet users to conclude that the domain name was meant to invoke the Complainant and its products and that it would lead to an official website of the Complainant.

2. The Complainant submitted cogent prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent and accordingly the Panel concludes that the Respondent has no right or legitimate interest in the disputed domain name.

3. The Panel concludes on the totality of the evidence that the Respondent had the Complainant's trademark "PIRELLI" in mind when registering the Disputed Domain Name, that she chose the name of the domain name to invoke the Complainant and its products, that she sought to mislead internet users into believing that the domain name was an official domain name of the Complainant , that the website to which it resolved was an official website of the Complainant, that this intention was enhanced by referring to the Complainant's Pirelli Scorpion Verde tyre on the website and describing it and that all of this was done by the Respondent for commercial benefit. Accordingly, the Respondent registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **PIRELLI-SCORPION-VERDE.COM**: Transferred

PANELLISTS

Name	**The Hon. Neil Brown, QC**

DATE OF PANEL DECISION 2012-03-15

Publish the Decision