Decision for dispute CAC-UDRP-100382

Case number	CAC-UDRP-100382
Time of filing	2014-06-12 11:13:35
Domain names	SBKRACINGSCHOOL.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	DORNA WSBK ORGANIZATION S.R.L.

Complainant representative

Organization	desimone & partners

Respondent

Organization	TRIDART, SL

OTHER LEGAL PROCEEDINGS

The panel is not informed of other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of numerous trade mark registrations comprising the wording SBK. The Complainant states that it also owns several domain names.

This is not contested by the Respondent.

FACTUAL BACKGROUND

The Complainant is the owner of several SBK registrations and applications in classes 41 for motor sport events and for all the services comprised in this class but also in class 12 for motorbikes and vehicles in general their accessories, parts and fittings and in class 9 for electronic games. The Complainant is also the proprietor of several SBK domain names.

The marks are used in relation to the World Superbike Championship since its inception in 1988 when the nascent series broke ground as a production-based motorcycle-racing program. The appeal of SBK was the fact that teams were running production motorcycles (highly modified, but none the less production-based). Superbike racing fans could see the same motorcycles that were on their local dealership's floor mixing it up at speed on racetrack. After humble beginnings the World Superbike Championship came under the guidance of the Italian Flammini Group (FGSports) in the early 90s. The Flammini

Group grew the series, securing prominent venues and developing a strong television package, bringing the racing to an immense viewership. By the mid-90s SBK was on par with MotoGP in terms of fan loyalty and coverage. An important element embraced by SBK was an atmosphere of access to its stars. Unlike Moto GP, fans were able to get close to their favorite riders.

The Complainant has been running an official Riding School together with a well known Driving School called Corsetti Federal School. In this Course there are several specializations and one of them is the SBK Racing.

The Registrant is a Spanish company called Tridart but, according to the Complainant, it qualifies itself as Escuela de Conducion de Moto SRS Superbike racing School. The Registrant has allegedly attempted to divert customers from the Complainant's website to its website. The Registrant allegedly represents itself as SBK in order to gain appreciation form the many motorist enthusiasts that follow SBK races.

On the 28 May 2014 the Complainant sent a warning letter requesting the assignment of the contested domain name to Dorna WSBK Organization Srl, but the Registrant has never replied to the letter.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

In order to determine whether the various SBK trademarks and the Domain Name are confusingly similar in the sense of paragraph 4 (a)(i) of the Policy, a comparison needs to be made between them and the likelihood of Internet user confusion should be determined.

The Panel refers to the well-established case law under the Policy, where it is generally found that when a trademark constitutes the dominant or principal component of the domain name, the addition of a descriptive word to a trademark is generally insufficient to avoid confusing similarity in the sense of paragraph 4(a)(i) of the Policy (BMA Alliance Coal Operations Pty. Ltd. V. Cameron Jackson, WIPO D2008-1338; MasterCard International Incorporated v. Michael J. Yanda, Indy Web Productions, WIPO D2007-1140).

The addition of the descriptive word "racingschool" to the trademark SBK increases Internet user confusion, given that the Complainant's trademarks are registered and used in relation to class 41 services, which includes "Driving School"-services. The fact that the Complainant runs an SBK Riding School in which one of the options is called SBK Racing, will give the Internet user the impression that there is a real connection between the Respondent's Domain Name and the Complainant's.

Consequently, the Complainant has, to the satisfaction of the Panel, shown that the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights (in the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has no registered trademark rights and there is no evidence that the Respondent is commonly known by the disputed domain name, nor has it been licensed or otherwise authorized to use any of the Complainant's trademarks or to apply for or use any domain name incorporating such trademarks. In similar circumstances, Panels considered that no bona fide or legitimate use of the disputed domain name could be claimed by the Respondent (BHP Billiton Innovation Pty Ltd. V. OS Domain Holdings IV LLC, WIPO D2008-0488).

The Panel is of the opinion that the Complainant comes forward with sufficient evidence indicating the absence of legitimate rights or interests in the Domain Name by the Respondent. In lack of any response from the Respondent, the Panel is of the opinion that this further substantiates that the Respondent has no rights or legitimate interests in respect of the Domain Name.

The Complainant has, to the satisfaction of the Panel, shown that the Respondent does not have rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

As a competitor, the Respondent must have been aware of the trademarks and reputation of the Complainant. The fact that the disputed Domain Name does not match the actual business name of the Respondent further proves that the disputed Domain Name is merely used as a tool to reach consumers interested in motorcycles and motor races and thus to take advantage of the repute of the trademark SBK. The incorporation of a trade mark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (General Electric Company v. CPIC NET and Hussain Syed, WIPO D2001-0087). The term SBK is meaningless and it is clear that whoever decided to incorporate this term in the Domain Name, selected it with the Complainant's trade mark in mind. Consequently, it is reasonable to infer that the Respondent has registered the Domain Name with full knowledge of the Complainant's mark and uses it for the purpose of misleading and diverting Internet traffic (Ferrari S.p.A v. American Entertainment Group Inc., WIPO D2004-0673).

The Complainant has, to the satisfaction of the Panel, shown that 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

The Respondent has registered and used a Domain Name that is confusingly similar to the Complainant's trademarks. The Respondent does not have rights or legitimate interests in this Domain Name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SBKRACINGSCHOOL.COM**: Transferred

PANELLISTS

Name	**Tom Heremans**

DATE OF PANEL DECISION 2014-07-19

Publish the Decision