Decision for dispute CAC-UDRP-100865

Case number	CAC-UDRP-100865
Time of filing	2014-10-16 16:29:10
Domain names	SBKINFO.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	DORNA WSBK ORGANIZATION S.r.l.

Complainant representative

Organization	desimone & partners

Respondent

Name	SERGEY SERGEEV

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

Complainant is the proprietor of numerous trade mark registrations comprising the wording SBK. Complainant states that it also owns several domain names.
This is not contested by Respondent.

FACTUAL BACKGROUND

Complainant is the owner of numerous trademark registrations for SBK 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, in class 25 for clothing and in class 9 for computer software, electronic games and so on. 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.

According to Complainant Respondent seems to be a physical person with a Russian common name. However in the WHOIS no mail address was given; Complainant called his telephone number but nobody answered and the fax number does not work.
Complainant sent a warning letter to Respondent requesting the assignment of the disputed domain name to Complainant, but Respondent never replied to the letter.

According to the evidence provided by Complainant the disputed domain name <sbkinfo.com> was a holding page displaying no information; after the warning letter sent by Complainant a picture was added. The disputed domain name was registered on August 23, 2014.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name.

According to Complainant the disputed domain name is registered and used in bad faith.
As to bad faith registration, when registering the disputed domain name, the Respondent was or could have been aware of the Complainant’s well-known business and widespread reputation in its SBK trademarks. It would have been sufficient to search on the internet.
The Respondent has not been using the domain name and no access is possible for the moment. According to Complainant it is a clear case of “passive holding”.

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).

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademarks (Policy, Par. 4 (a) (1)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. The addition of the descriptive word "info" does not change this conclusion.
The trademarks of Complainant predate by several years the registration date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate noncommercial or

fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the Domain Name nor has it acquired trademark rights. Complainant has no relationship with Respondent.
Respondent did not submit any response.
Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name (Policy, Par. 4 (a)(11)).

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The trademarks of Complainant have been existing for a long time. Respondent knew or should have known that the disputed domain name included Complainant's well-known trademarks. The Panel notes that there is no active website at the disputed domain name. However, such passive holding of the website does not prevent the Panel from finding registration and use in bad faith. The Panel further notes that Respondent undeveloped use of the website at the disputed domain name which incorporates Complainant's trademarks in its entirety indicates that Respondent possibly registered the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, as per paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SBKINFO.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2014-11-17

Publish the Decision