Decision for dispute CAC-UDRP-101699

Case number	CAC-UDRP-101699
Time of filing	2017-10-04 08:59:13
Domain names	INTESASANPAOLO-ONLINEACCESSO.COM , INTESASANPAOLO-ONLINEACCESSO.INFO

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Perani Pozzi Associati

Respondent

Name	ORVIE TANA

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other pending proceedings that relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the proprietor of the International registration 920896 INTESA SANPAOLO registered on March 7, 2007 and extended for numerous countries.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

THE DOMAIN NAMES ARE IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

The Complainant is the leading Italian banking group and also one of the protagonists in the European financial arena. Intesa Sanpaolo is the company resulting from the merger (effective as of January 1, 2007) between Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., two of the top Italian banking groups.

Intesa Sanpaolo is among the top banking groups in the euro zone, with a market capitalisation exceeding 47,5 billion euro, and the undisputed leader in Italy, in all business areas (retail, corporate and wealth management). Thanks to a network of

approximately 4,600 branches capillary and well distributed throughout the Country, with market shares of more than 13% in most Italian regions, the Group offers its services to approximately 12.3 million customers. Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 1.100 branches and over 7,7 million customers. Moreover, the international network specialised in supporting corporate customers is present in 27 countries, in particular in the Mediterranean area and those areas where Italian companies are most active, such as the United States, Russia, China and India.

The Complainant is the owner, among others, of the following registrations for the trademarks “INTESA SANPAOLO”:

- International trademark registration n. 920896 “INTESA SANPAOLO”, granted on March 07, 2007, in classes 9, 16, 35, 36, 38, 41 and 42;
- EU trademark registration n. 5301999 “INTESA SANPAOLO”, applied on September 08, 2006 and granted on June 18, 2007, in classes 35, 36 and 38;
- EU trademark registration n. 5421177 “INTESA SANPAOLO & device”, applied on October 27, 2006 and granted on November 5, 2007, in classes 9, 16, 35, 36, 38, 41 and 42.

Moreover, the Complainant is also the owner, among the others, of the following domain names bearing the sign “INTESA SANPAOLO”: “INTESASANPAOLO.COM, .ORG, .EU, .INFO, .NET, .BIZ” and “INTESA-SANPAOLO.COM, .ORG, .EU, .INFO, .NET, .BIZ”. All of them are now connected to the official website <intesasanpaolo.com>.

On September 11, 2017, the Respondent registered the domain names <INTESASANPAOLO-ONLINEACCESSO.COM> and <INTESASANPAOLO-ONLINEACCESSO.INFO>.

The disputed domain names are connected to a website called “Playseat”, in which accessories (namely driver simulators) for home video game consoles such as PlayStation, Xbox and Wii, are commercialized.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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 order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) The Disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant

has rights; and

(ii) The Respondent has no rights or legitimate interests with respect to the Disputed domain name; and

(iii) The Disputed domain name has been registered and is being used in bad faith.

The Complainant has established the fact that it has valid trademark rights for “INTESA SANPAOLO”. The disputed domain names are confusingly similar to this trademark since the descriptive additon of the elements “onlineaccesso.com“ or “onlineaccesso.info“ does not have a decisive influence on the similarity of the domain names to the trademark of the Complainant.

The Panel therefore considers the disputed domain names to be confusingly similar to the trademark “INTESA SANPAOLO” in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain names, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain names, since there is no indication that the Respondent is commonly known by the name “INTESA SANPAOLO onlineaccesso” or that the Respondent is using the sisputed domain names in connection with a bona fide offering of goods or services.The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain names within the meaning of paragraph 4(a)(ii)of the Policy.

In view of the size of the company of the Italian Complainant, the Respondent domiciled in Italy must have been aware of the Complainant and its trademarks when registering the disputed domain names. The Complainant has not authorized the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain names without the Complainant’s authorization. The circumstances of this case indicate that the Respondent registered and uses the disputed domain names primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.

The Panel therefore considers the disputed domain names to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTESASANPAOLO-ONLINEACCESSO.COM** : Transferred
2. **INTESASANPAOLO-ONLINEACCESSO.INFO**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2017-11-10

Publish the Decision