Decision for dispute CAC-UDRP-101895

Case number	CAC-UDRP-101895
Time of filing	2018-02-27 09:16:19
Domain names	INTESASANPAOLO37281.TOP

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Perani Pozzi Associati

Respondent

Organization	Gamblin Artists Colors

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of multiple trademarks including the International trademark INTESA SANPALO, number 920896, date of registration 7 March 2007.

FACTUAL BACKGROUND

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

According to the information provided Complainant is the leading Italian banking group. It is among the top banking groups in the euro zone with a network of approximately 4,800 branches. Moreover, the international network specialized in supporting corporate customers is present in 26 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 disputed domain name <intesasanpaolo37281.top> was registered on 22 December 2017. The disputed domain name is not used in connection with an active website.

The trademark registrations of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark as it contains the trademark INTESA SANPALO in its entirety with the addition of the numbers 37281.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name as the website to which the disputed domain name resolves is inactive. Respondent is not related in any way with the business of Complainant.

According to Complainant the disputed domain name is registered in bad faith. Given the distinctiveness of Complainant's trademark, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark. Complainant also in the present case believes that the actual owner registered the disputed domain name with the purpose of “phishing”, in order to induce and divert Complainant’s legitimate customers to its website and steal their money.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

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

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 the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademarks (within the meaning of paragraph 4 (a)(i) of the Policy). Many UDRP decisions have found that a disputed domain name is 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 International trademark of Complainant predates by many years the registration date of the disputed domain name. The top-level domain “top” and the addition of the numbers “37281” may be disregarded.

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 its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant. Respondent is not commonly known by the disputed 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 (within the meaning of paragraph 4 (a)(ii) of the Policy).

The Panel finds that 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). The trademarks of Complainant have existed for a long time and are well-known. Respondent knew or should have known that the disputed domain name included Complainant's trademarks. The Panel notes that there is currently no website at the disputed domain name. Passive holding of the disputed domain name does not prevent the Panel from finding registration and use in bad faith. The Panel further notes that the undeveloped use of the website at the disputed domain name which incorporates Complainant's trademarks in its entirety indicates that Respondents possibly registered the disputed domain name for "phishing" purposes and with the attention 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. **INTESASANPAOLO37281.TOP**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2018-05-07

Publish the Decision