Decision for dispute CAC-UDRP-102032

Case number	CAC-UDRP-102032
Time of filing	2018-06-01 08:53:01
Domain names	official-intesa-sanpaolo.com

Case administrator

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

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Perani Pozzi Associati

Respondent

Name	Marcone Lorenzo

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is inter alia the owner of the Community trademark registration no. 5301999 “INTESA SANPAOLO”, registered on June 18, 2007 for various services in classes 35, 36 and 38 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a leading Italian banking group. It 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 Italian banking groups. The Complainant has a market capitalization exceeding 46,4 billion Euro, provides its services approximately to 12.6 million customers and is the leader in Italy with a network of approximately 4,800 branches and a market share of more than 16% in most Italian regions.

The disputed domain name was registered on May 23, 2018 and used in connection with a phishing website, which includes the Complainant's official logo.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark as the disputed domain name includes in its entirety the Trademark and as the addition of the generic term “official" is not sufficient to avoid such confusing similarity.

The Complainant also states that the Respondent does not have any rights or legitimate interest with regard to the disputed domain name. The Complainant argues that the Respondent has nothing to do with the Complainant, that the Respondent's use of the disputed domain name has not been authorized or licensed by the Complainant, that the disputed domain name does not correspond to the name of the Respondent, that the Respondent is not commonly known as “OFFICIAL-INTESA-SANPAOLO”, and that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name.

With regard to bad faith, the Complainant states that the Trademark is distinctive and well-known all around the world and that the Respondent had knowledge of the Complainant’s trademarks at the time of registration of the disputed domain name and therefore registered the disputed domain name in bad faith. With regard to bad faith use, the Complainant argues that the Respondent uses the disputed domain name in connection with a phishing website and thereby has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website. In addition, the Complainant provided evidence that the Respondent's website also reproduces the Complainant’s logo and website layout.

RESPONDENT:

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the domain name is identical or confusingly similar to the Complainant's trademark; and

(ii) the Respondent has no rights or legitimate interests in respect of the domain name; and

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

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark. It is well established that a

domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the Policy despite the addition of generic terms, such as "official".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraphs 4(a)(ii) and 4(c) of the Policy.

3.1 Given that the Respondent is using the Complainant's logo on its website, the Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark.

3.2 The Panel is also satisfied that the disputed domain name is being used in bad faith under paragraph 4(b)(iv) of the Policy on the basis that the website operating under the disputed domain name is intentionally trying to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation, or endorsement of it.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **OFFICIAL-INTESA-SANPAOLO.COM**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2018-07-18

Publish the Decision