Decision for dispute CAC-UDRP-102729

Case number	CAC-UDRP-102729
Time of filing	2019-10-22 10:09:50
Domain names	intesasanpaoko.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	Lee Black

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any related proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of the International trademark registration n. 920896 “INTESA SANPAOLO”, granted on March 7, 2007 and duly renewed, in classes 9, 16, 35, 36, 41 and 42, also covering Japan.

FACTUAL BACKGROUND

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

The Complainant is a leading Italian banking group and also one of the protagonists in the European financial arena.

Intesa Sanpaolo is among the top banking groups in the euro zone, with a market capitalisation exceeding 38,1 billion euro. Due to a network of approximately 3,900 branches capillary and well distributed throughout the Country, with market shares of more than 16 % in most Italian regions, the Group offers its services to approximately 11,8 million customers. Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 1.100 branches and over 7,2 million customers. Moreover, the international network specialised in supporting corporate customers is present in 25 countries.

On May 19, 2019, the Respondent registered the domain name <INTESASANPAOKO.COM>.

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.

In accordance with paragraph 11 of the UDRP, the Panel can determine the language of the proceeding otherwise having regard to the circumstances of the case. Since the website the disputed domain name is referring to which was filed as Annex C is partly in English and the website the domain name was referring to at the time of this decision was partly in English, partly in German showing a faked website of the US company Apple and wrongly indicating that the downloading computer was blocked, the Panel, having considered the circumstances of this case, determines that English is the language of the proceeding as requested by the Complainant.

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 name is confusingly similar to this trademark since only the letter „L“ is changed to „K“ in the last part of the disputed domain name which does not essentially change the similarity.

The Panel therefore considers the disputed domain name 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 name, 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 name, since there is no indication that the Respondent is commonly known by the name “INTESA

SANPAOkO" or that the Respondent is using the disputed domain name 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 name within the meaning of paragraph 4(a)(ii) of the Policy.

In view of the size of the company of the Italian Complainant, Complainant´s mark being also registered in Japan as the alleged domicile of Respondent, Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name. 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 name without the Complainant's authorization.

The circumstances of this case, in particular the disputed domain name being different only in the letter "K" instead of "L" whereas these two letters being on many keyboards next to each other, indicate that the Respondent registered and uses the disputed domain name in the form of typo squatting 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 name has 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. **INTESASANPAOKO.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2019-11-20

Publish the Decision