Decision for dispute CAC-UDRP-102761

Case number	CAC-UDRP-102761
Time of filing	2019-11-01 10:47:01
Domain names	intesabanca.club

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Perani Pozzi Associati

Respondent

Name	Martin Duccato

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademarks “INTESA” and “BANCA INTESA”:

-International trademark registration no. 793367 “INTESA”, granted on September 4, 2002 and duly renewed, in class 36;
-International trademark registration no. 1027279 “BANCA INTESA & device”, granted on November 18, 2009 and duly renewed, in classes 9, 16, 35, 36, 41 and 42;
-International trademark registration no. 1032908 “BANCA INTESA”, granted on December 18, 2009, in classes 9, 16, 35, 36, 41, 42 and 45;
-International trademark registration no. 831572 “BANCA INTESA & device”, granted on June 24, 2004, in class 36;
-EU trademark registration no. 12247979 “INTESA”, applied on October 23, 2013 and granted on March 5, 2014, in classes 9, 16, 35, 36, 38, 41 and 42.

("Complainant`s Trademarks")

On July 1, 2019, the Respondent registered the disputed domain name INTESABANCA.CLUB.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) the Complainant is the leading Italian banking group. It is among the top banking groups in the euro zone, with a market capitalisation exceeding 38,1 billion euro, and the undisputed leader in Italy, in all business areas (retail, corporate and wealth management). Thanks 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;

(b) the Complainant is the owner of the Complainant's Trademarks;

(c) the Complainant owns many domain names consisting of different variations of its name such as "INTESA", "BANCA INTESA" and "INTESA BANCA": INTESA.COM, INTESA.INFO, INTESA.BIZ, INTESA.ORG, INTESA.US, INTESA.EU, INTESA.CN, INTESA.IN, INTESA.CO.UK, INTESA.TEL, INTESA.NAME, INTESA.XXX or INTESA.ME, BANCAINTESA.COM, .INFO, .ORG, .BIZ, .MOBI, .NET, .SITE, .EU, .IT, .PL, .COM.PL, .IN, .CO.IN, .RS, .CO.RS, .CO, .TK, .ME, .RO, .ASIA, .TW, .TV, .IR, .CC, .WS, .CN, .COM.CN, .COM.AR, .KR, .CO.KR, .ORG.CN, .NET.CN and INTESABANCA.COM, .INFO and .IT;

(d) on July 1, 2019, the Respondent registered the disputed domain name INTESABANCA.CLUB; and

(e) on the website under the disputed domain name there is only a general landing page showing some sponsored links otherwise the disputed domain name is inactive.

PARTIES CONTENTIONS

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) It is obvious that the disputed domain name at issue is identical, or at least confusingly similar, to the Complainant's Trademarks "BANCA INTESA" and "INTESA". As a matter of fact, INTESABANCA.CLUB exactly reproduces Complainant`s well-known trademark "BANCA INTESA", with the mere inversion of the terms "BANCA" and "INTESA";

(ii) the Respondent is not affiliated with the Complainant nor authorized by it in any way to use Complainant's Trademarks. The Complainant does not carry out any activity for, nor has any business with the Respondent. There is no website under the disputed domain name and no indication of preparation for its use was established in these proceedings. Therefore, the Respondent has no legitimate interest in the disputed domain name;

(iii) given the distinctiveness of the Complainant's Trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's Trademarks. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's Trademarks as to the source, sponsorship, affiliation, or endorsement of his web site. This amounts to bad faith in registration and use of the disputed domain name;

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to Complainant's Trademarks within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

(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 in respect of the disputed domain name; and

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

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant’s Trademarks. It contains the principal elements of Complainant's Trademarks "BANCA" and "INTESA" in reversed order which cannot diminish confusing similarity with Complainant`s Trademarks.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".club") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel is not entirely convinced that the Respondent has registered and is using the domain name to attain unfair commercial gain by unfair exploitation of Complainant`s Trademarks. There is only a landing page under the disputed domain name with a couple of sponsored links which, in the opinion of the Panel, do not evidence such unfair commercial exploitation. On the other hand, given the reputation of the Complainant and well-known nature of its trademarks the Panel cannot find any conceivable good faith registration and use of the disputed domain name by the Respondent in a situation where there is no legitimate website under the disputed domain name and there was no response to the complaint in which the Respondent could have established such good faith use of the disputed domain name (or at least preparations for such good faith use).

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of 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. **INTESABANCA.CLUB**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2019-12-03

Publish the Decision