Decision for dispute CAC-UDRP-102993

Case number	CAC-UDRP-102993
Time of filing	2020-04-23 09:51:32
Domain names	INTESASANPAOLO-LOGIN.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	MICHELE DEL NVO

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 European Union trademark INTESA SANPAOLO, number 005301999, registration date 18 June 2007.

FACTUAL BACKGROUND

According to the provided information Complainant is a leading Italian banking group. It is among the top banking groups in the euro zone with a network of approximately 4,100 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. Its principal website is “www.intesasanpaolo.com”.

The disputed domain name <intesasanpaolo-login.com> was registered on 20 January 2020. The disputed domain name does not resolve to an active website.

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

Complainant requests that English is the language of the proceeding. Complainant submits that both Complainant and

Respondent are Italians, while the language of the registration agreement is Russian. English is an international language comprehensible to a wide range of Internet users worldwide, including the ones living in Italy and in Russia. Since the spirit of paragraph 11 of the UDRP Rules seems to be to ensure fairness in the selection of language by giving full considerations to the parties' level of comfort with each language, English seems to be the fair language in the present proceeding. It is not possible to ignore that the present dispute has been started because Respondent (an Italian subject) deliberately registered a domain name which is identical to a well-known registered trademark legitimately owned and used in Italy by Complainant already several years all around the world. Since it is inconceivable that Respondent was not aware of such circumstances when it registered the disputed domain name, Complainant believes that it is a fair solution to have English as the language of the proceeding.

According to Complainant the disputed domain name is identical or confusingly similar to Complainant's trademarks as it is almost identical to Complainant's well-known trademark INTESA SANPAOLO with the mere addition of word "login".

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not related in any way with the business of Complainant. Nobody has been authorized or licensed by Complainant to use the disputed domain name. The disputed domain name does not correspond to the name of the Respondent.

According to Complainant the disputed domain name is registered and used in bad faith. Complainant's trademark INTESA SANPAOLO is distinctive. The fact that Respondent has registered a domain name that is confusingly similar to the trademark indicates that Respondent had knowledge of Complainant's trademark at the time of registration of the disputed domain name. It is more than likely that the disputed domain name would not have been registered if it were not for Complainant's trademark.

The disputed domain name is not used for any bone fide offerings, and it is not connected to any web site. Complainant asserts that countless UDRP decisions confirmed that the passive holding of a domain name with knowledge that the domain name infringes another party's trademark rights is evidence of bad faith registration and use.

In addition Complainant submits that the risk of wrongful use of the disputed domain name issue is high in the present case, since Complainant has already been targeted by some cases of phishing in the past few years. Such a practice consists of attracting customers of a bank to a web page which imitates the real page of the bank, with a view to having customers disclose confidential information like a credit card or bank account number, for the purpose of unlawfully charging such bank accounts or withdrawing money out of them. It happened that some clients of Complainant have received e-mail messages asking, by the means of web pages which were very similar to the Complainant's ones, the sensitive data of the Clients, like user ID, password etc. Then, some of the Clients have been cheated out of their savings.

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 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 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 decides in accordance with paragraph 11 of the UDRP Rules that English is the language of the proceeding. In accordance with section 3.3. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") the Panel takes into account that the language of the disputed domain name includes Complainant's well-known trademark, and that the disputed domain name includes the English term "login". Finally, the Panel notes that there is lack of reaction on the part of Respondent after having been given a fair chance to comment.

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 trademark (within the meaning of paragraph 4 (a)(i) of the Policy). Many UDRP decisions have found that a domain name is confusingly similar to a complainant's trademark where the domain name incorporates the complainant's trademark in its entirety. The European Union trademark of Complainant predates by many years the registration date of the disputed domain name. Complainant's European Union trademark INTESA SANPAOLO is incorporated in the disputed domain name in its entirety . The top-level domain "com", and the addition of the generic Internet related word "login" and the hyphen "-" before the word "login" 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 are well-known. Respondent knew or should have known that the disputed domain name included Complainant's trademarks.

The Panel notes that the disputed domain name does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0).

The Panel finally notes the undisputed submission of Complainant that the risk of wrongful use of the disputed domain name issue is high in the present case, since Complainant has already been targeted by some cases of "phishing" in the past few years. In the view of the Panel this risk of "phishing" could especially be true in view of the "login" part of the disputed domain name in combination with the "intesasanpaolo" part of the disputed domain name which is not only the INTESA SANPAOLO trademark of Complainant, but also the corporate name of the financial institution and the identification of the website of Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTESASANPAOLO-LOGIN.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2020-07-01

Publish the Decision