Decision for dispute CAC-UDRP-103210

Case number	CAC-UDRP-103210
Time of filing	2020-07-31 09:10:28
Domain names	LNTESA-SP-ITALIA.COM

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Perani Pozzi Associati

Respondent

Name	matteo matriosca

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant proved to be the owner of the following “INTESA” and “INTESA SANPAOLO” trademarks:

- International trademark registration n. 793367 “INTESA”, granted on September 4, 2002 and duly renewed, in class 36;

- International trademark registration n. 920896 “INTESA SANPAOLO”, granted on March 7, 2007 and duly renewed, in classes 9, 16, 35, 36, 41, 42;

- EU trademark registration n. 12247979 “INTESA”, applied on October 23, 2013 and granted on March 5, 2014, in classes 9, 16, 35, 36, 38, 41 and 42;

- EU trademark registration n. 5301999 “INTESA SANPAOLO”, applied on September 8, 2006, granted on June 18, 2007 and duly renewed, in classes 35, 36 and 38.

The Complainant also claims to own numerous domain names composed by "INTESA" and "INTESA SANPAOLO".

FACTUAL BACKGROUND

The Complainant is an Italian based company active in the banking field.

The Complainant owns numerous trademarks composed by "INTESA" or "INTESA SAN PAOLO" and operates the domain name <intesasanpaolo.com>.

According to the information provided by the Registrar, the Respondent is Matteo Matriosca based in Roma. The disputed domain name currently resolves to a webpage blocked by google security service.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

As regards the first element of the Policy, the Complainant supports that the disputed domain name is confusingly similar to the "INTESA" and "INTESA SAN PAOLO" trademarks. The disputed domain name reproduces the trademark “INTESA”, with the substitution of the initial letter “I” with the letter “L” and the addition of the terms “SP” (which represents the abbreviation of the mark’s verbal portion “SANPAOLO”) and “ITALIA” (the country in which is located Intesa Sanpaolo's headquarters).

As regards the second element of the Policy, the Complainant denies that the Respondent has been authorized to use the trademarks "INTESA" and "INTESA SAN PAOLO" in the disputed domain name.

As regards the third element of the Policy, the Complainant claims that the Respondent registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant. Furthermore the Complainant suspects that the disputed domain name is/could be used for phishing activities.

RESPONDENT:

The Respondent did not reply to the Complaint.

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

1. The disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Panel takes the view that the Complainant's trademark "INTESA" is recognizable within the disputed domain name. As a matter of fact, the initial element of the disputed domain name "LNTESA" is almost identical to "INTESA" as the signs differ by one letter only.

The other elements "SP" and "ITALIA" are not sufficient to exclude the confusing similarity between the disputed domain name and the Complainant's trademark. "SP" could be perceived as an abbreviation of the "SAN PAOLO" element while "ITALIA" is a geographical term strictly related to the Complainant's business (the Complainant is based in Italy).

As a consequence, these elements could increase rather than exclude the risk of confusion for the public.

Furthermore, the addition of ".com" is generally disregarded in view of its technical function.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a response to the Complaint. Therefore, it has filed no information on possible rights or legitimate interests it might hold. On its part, the Complainant has submitted information and arguments which, according to the Panelist, are sufficient to conclude that the Respondent has no rights or legitimate interest in the disputed domain name.

According to the information provided by the Complainant, and not contested, the Respondent is not commonly known by the disputed domain name nor he has been authorized to use the Complainant's trademark.

Additionally, the disputed domain name leads to an inactive page. The Panels finds that the lack of contents at the disputed domain name shows the absence of a bona fide offering of goods or services and of a legitimate noncommercial/ fair use of the disputed domain name.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of the Policy.

3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds the following circumstances as material in order to establish the Respondent's bad faith in the registration of the disputed domain name:

(i) the disputed domain name was registered well after the Complainant acquired rights on the trademarks "INTESA" and "INTESA SAN PAOLO";

(ii) the Complainant's trademark is known in the banking/financial field at least in Italy where the Respondent is allegedly based. The reputation of the INTESA and INTESA SAN PAOLO trademarks makes it very improbable that the Respondent was not aware of the Complainant's exclusive rights at the time of the registration of the disputed domain name;

(iii) the use of the words "ITALIA" and "SP" combined with "INTESA" is, without any reasonable explication by the Respondent, an index that the Respondent knew about the INTESA trademark and the Complainant's business at the time of the registration of the disputed domain name.

Currently, the disputed domain name is not used. It is consensus view among the UDRP panels, that non-use of a domain name does not prevent a finding of use in bad faith (WIPO Case No. 2000-0003). In this case, the Panel considers the following circumstances as material to conclude that the disputed domain name is used in bad faith:

(i) the high degree of distinctiveness and reputation of the Complainant's trademark which makes it very improbable that the disputed domain name could be used in good faith;

(ii) the Respondent had the chance to explain the reason of the registration/use of the disputed domain name both in and outside this administrative proceeding but failed to do so;

(iii) the disputed domain name was probably used for phishing. There is no concrete evidence of such illicit activity, however the Complainant proved that the website to which the disputed domain name redirected is blocked by GOOGLE Safe Browsing. The Respondent had the chance to clear how he used/intended to use the disputed domain name but failed to do so. As a consequence, the Panel takes very seriously the Complainant’s allegations on a possible use of <LNTESA-SP-ITALIA.COM> for phishing.

For these reasons, the Panel takes the view that the Respondent registered and used the disputed domain name in bad faith for the purposes of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LNTESA-SP-ITALIA.COM**: Transferred

PANELLISTS

Name	**Andrea Mascetti**

DATE OF PANEL DECISION 2020-08-27

Publish the Decision