Decision for dispute CAC-UDRP-103239

Case number	CAC-UDRP-103239
Time of filing	2020-09-02 09:17:23
Domain names	INTESA-SICUREZZAIT.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	Jacopo Romano

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any related proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the proprietor of the International trademark registration n. 793367 “INTESA“, registered on September 4, 2002 and duly renewed, in class 36.

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.

The Complainant is among the top banking groups in the euro zone, with a market capitalisation exceeding 29 billion euro. Due to a network of approximately 3700 branches capillary and well distributed throughout the Country, with market shares of more than 15 % 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 1.000 branches and over 7,2 million customers. Moreover, the international network specialised in supporting corporate customers is present in 25 countries.

On December 17, 2019, the Respondent registered the disputed domain name.

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.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has established the fact that it has valid trademark rights for “INTESA”. The disputed domain name is confusingly similar to this trademark since the descriptive addition of the elements “SICUREZZA“ (meaning „security“) and „IT“ does not have a decisive influence on the similarity of the domain name to the trademark of the Complainant.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark “INTESA” 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-SICUREZZAIT” 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, the Respondent domiciled in Italy 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.

It is the consensus view of panels (following the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org>) that the apparent lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. Examples of what may be circumstances found to be indicative of bad faith include that no response to the complaint has been filed. Accordingly, 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) by registering a confusingly similar domain name being aware of the trademarks of the Complainant. 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 under the present circumstances.

The Panel therefore considers the disputed domain name to have 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. **INTESA-SICUREZZAIT.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2020-10-08

Publish the Decision