Decision for dispute CAC-UDRP-103390

Case number	CAC-UDRP-103390
Time of filing	2020-11-12 11:02:32
Domain names	GRUPPO-ISP-INTESA.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	intesa Sanpaolo S.p.A.

Complainant representative

Organization	Intesa Sanpaolo S.p.A.

Respondent

Name	Mark Etplace

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademark registrations consisting of the terms “ISP”, “GRUPPO INTESA” and “GRUPPO INTESA SANPAOLO”:

- EU trademark registration no. 7310337 “ISP”, filed on October 13, 2008 and granted on February 12, 2010 and duly renewed, in connection with class 36;

- EU trademark registration no. 779827 “GRUPPO INTESA”, filed on March 24, 1998 and granted on November 15, 1999 and duly renewed, in connection with classes 9, 16, 36, 41 and 42;

- EU trademark registration no. 5344544 “GRUPPO INTESA SANPAOLO”, filed on September 28, 2006, granted on July 6, 2007 and duly renewed, in connection with classes 35, 36 and 38.

FACTUAL BACKGROUND

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

The Complainant claims to be among the top banking groups in the euro zone, with a market capitalisation exceeding 46,4 billion euro, and the undisputed leader in Italy, in all business areas (retail, corporate and wealth management).

It further contends its mark “GRUPPO INTESA” and “GRUPPO INTESA SANPAOLO” to be distinctive and well-known worldwide.

The Respondent registered the disputed domain name on March 18, 2020. The disputed domain name resolves to a website sponsoring, among others, banking and financial services.

On April 3, 2020 the Complainant’s attorneys sent a cease and desist letter to the Respondent, asking for the voluntary transfer of the disputed domain name to the Complainant. The Respondent did not reply to this letter.

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

1.
The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks.

Many panels have found that a domain name is confusingly similar to a complainant’s trademark where it incorporates the complainant’s trademark in its entirety. This is the case here, where even two if the Complainant’s registered trademarks, namely “GRUPPO INTESA" and "ISP", are fully included in the disputed domain name.

2.
In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related in any way to the Complainant’s business. In addition, the Respondent is not commonly known by the disputed domain name. Finally, the website is parked and shows commercial links including links resolving to the Complainant's competitors. This can neither be considered as bona fide offering of goods or services nor 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 trademark or

service mark at issue.

3.
Finally, the Panel finds that the disputed domain name has also been registered and is being used in bad faith.

It is the view of this Panel that the Respondent has registered the disputed domain name, which fully includes two of the Complainant's trademarks, namely "GRUPPO INTESA" and "ISP", in order to intentionally attempt to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy). Considering the identity between the trademarks "GRUPPO INTESA" and "ISP" and the disputed domain name, which suggests the Respondent's awareness of the trademark, the Panel also considered the following additional relevant factors: (i) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (ii) the failure of the Respondent to reply to the warning letter, (iii) the Respondent hiding his identity behind a privacy shield, and (iv) the implausibility of any good faith use to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **GRUPPO-ISP-INTESA.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2020-12-21

Publish the Decision