

Decision for dispute CAC-UDRP-103908

Case number	CAC-UDRP-103908
Time of filing	2021-07-02 09:37:37
Domain names	INFO-GRUPPOISP-ITALIA.COM

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Intesa Sanpaolo S.p.A.
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Complainant representative

Organization	Intesa Sanpaolo S.p.A.
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Respondent

Name	andrea paradiso
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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 has proven to be the owner of the "INTESA", "INTESA SANPAOLO", "GRUPPO INTESA SANPAOLO" and "ISP" marks.

The Complainant is, inter alia, the owner of the following trademarks:

- International trademark registration no. 793367 "INTESA", granted on September 4, 2002 and duly renewed, in class 36;
- International trademark registration no. 920896 "INTESA SANPAOLO", granted on March 7, 2007 and duly renewed, in classes 9, 16, 35, 36, 41, 42;
- EUTM registration no. 12247979 "INTESA", applied for on October 23, 2013 and granted on March 5, 2014, in classes 9, 16, 35, 36, 38, 41 and 42;
- EUTM registration no. 5301999 "INTESA SANPAOLO", applied for on September 8, 2006, granted on June 18, 2007 and duly renewed, in classes 35, 36 and 38;
- EUTM registration no. 5344544 "GRUPPO INTESA SANPAOLO", applied for on September 28, 2006, granted on July 6, 2007 and duly renewed, in classes 35, 36 and 38; and
- EUTM registration no. 7310337 "ISP", applied for on October 13, 2008, granted on February 12, 2010 and duly renewed, in class 36.

The Complainant is also the owner, inter alia, of the following domain names bearing the signs "INTESA SANPAOLO" and "INTESA": <intesasampaolo.com, .org, .eu, .info, .net, .biz, intesa-sampaolo.com, .org, .eu, .info, .net, .biz and intesa.com, .info, .org, .biz, .us, .eu, .cn, .in, .co.uk, .tel, .name, .xxx, .me>. All of these are now connected to the official website <http://www.intesasampaolo.com>.

FACTUAL BACKGROUND

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

The Complainant is the leading Italian banking group and also one of the protagonists in the European financial arena. Intesa Sanpaolo is the company resulting from the merger (effective as of January 1, 2007) between Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., two of the top Italian banking groups.

Intesa Sanpaolo is among the top banking groups in the euro zone, with a market capitalisation exceeding 29,8 billion euro, and the undisputed leader in Italy, in all business areas (retail, corporate and wealth management). Thanks to a network of approximately 3,700 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 7,1 million customers. Moreover, the international network specialised in supporting corporate customers is present in 25 countries, in particular in the Mediterranean area and those areas where Italian companies are most active, such as the United States, Russia, China and India.

The Complainant has proven to be the owner of the "INTESA", "INTESA SANPAOLO", "GRUPPO INTESA SANPAOLO" and "ISP" marks.

The disputed domain name was registered on May 29, 2020.

The Complainant's trademark and domain name registrations predate the registration of the disputed domain name

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant contends that the disputed domain name <info-gruppoisp-italia.com > is confusingly similar to its well-known and distinctive trademarks "ISP", "INTESA", "INTESA SANPAOLO" and "GRUPPO INTESA SANPAOLO". The Complainant further affirms that, as a matter of fact, <info-gruppoisp-italia.com> reproduces the trademark "ISP" with the mere addition of the descriptive words "info", "Gruppo" and "Italia", and that <info-gruppoisp-italia.com> is almost identical to the Complainant's well-known trademark "GRUPPO INTESA SANPAOLO", with the substitution of the mark's verbal portion "INTESA SANPAOLO" with the abbreviation "ISP" and the addition of the terms "INFO" and "ITALIA" (the country in which the Complainant's headquarters are located).

The respondent has no rights or legitimate interests in respect of the domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

The domain name was registered and is used in bad faith

The Complainant contends that owing to the renown of the Complainant's trademarks, it is presumable that the Respondent had actual knowledge of the Complainant's distinctive trademarks.

The Complainant further contends that the disputed domain name is not used for any bone fide offerings, in fact, it is connected to a website sponsoring, among others, banking and financial services.

These are circumstances indicating that, by using the disputed domain name, 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 mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy).

The Complainant finally notes that the Respondent did not reply to the cease and desist letter sent by the Complainant's attorneys.

RESPONDENT:

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the addition of the descriptive terms, "info", "Gruppo" and "Italia" does not prevent the disputed domain name from being confusingly similar to the Complainant's trademarks.

In fact, the addition in the disputed domain name of these elements does not prevent the Complainant's renowned trademarks from being recognizable in the disputed domain name.

Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") which states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

Therefore, the Panel finds the disputed domain name to be confusingly similar to the Complainant's trademarks.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed

domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, especially in Italy, it is reasonable to infer that the Respondent, who apparently is from Italy, registered the disputed domain name with full knowledge of the Complainant's trademark.

Therefore, the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the disputed domain name is connected to a website sponsoring, among others, banking and financial services.

The Panel thus believe that by using the disputed domain name, the Respondent has intentionally attempted to attract, presumably for commercial gain, Internet users to its web site by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its web site (par. 4(b)(iv) of the Policy).

Finally, Further inference of bad faith can also be found in the failure to respond to the cease and desist letter sent by the representative of the Complainant.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. INFO-GRUPPOISP-ITALIA.COM: Transferred

PANELLISTS

Name	Dr. Fabrizio Bedarida
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DATE OF PANEL DECISION **2021-08-16**

Publish the Decision
