

Decision for dispute CAC-UDRP-104025

Case number	CAC-UDRP-104025
Time of filing	2021-10-04 09:48:08
Domain names	LNTESASANPAOLO-AGGIORNAMENTO.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

Organization	CARMELLO GIANLUCCI
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OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner, among others, of the following registrations for the trademarks “INTESA” and “INTESA SANPAOLO”:

- International trademark registration n. 920896 “INTESA SANPAOLO”, granted on March 7, 2007;
- EU trademark registration n. 5301999 "INTESA SANPAOLO", granted on June 18, 2007;
- International trademark registration n. 793367 “INTESA”, granted on September 4, 2002; and
- EU trademark registration n. 12247979 “INTESA”, granted on March 5, 2014.

FACTUAL BACKGROUND

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

The Complainant is the leading Italian banking group and 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 eurozone, with a market capitalization exceeding 46,6 billion euros, and the undisputed leader in Italy in all business areas (retail, corporate, and wealth management). Thanks to a network of approximately 4,300 branches capillary and well distributed throughout the country, with more than 19% market shares in most Italian regions, the Group offers its services to about 13,5 million customers. In addition, 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 specializing in supporting corporate customers is present in 25 countries, particularly in the Mediterranean area and those areas where Italian companies are most active, such as the United States, Russia, China, and India.

The Complainant is also the owner, among the others, of the following domain names bearing the signs "INTESA SANPAOLO" and "INTESA": <INTESASANPAOLO.COM, .ORG, .EU, .INFO, .NET, .BIZ, INTESA-SANPAOLO.COM, .ORG, .EU, .INFO, .NET, .BIZ and INTESA.COM, INTESA.INFO, INTESA.BIZ, INTESA.ORG, INTESA.US, INTESA.EU, INTESA.CN, INTESA.IN, INTESA.CO.UK, INTESA.TEL, INTESA.NAME, INTESA.XXX, INTESA.ME>. All of them are now connected to the official website <http://www.intesasnpaolo.com>.

On August 24, 2020, the Respondent registered the disputed domain name.

PARTIES CONTENTIONS

COMPLAINANT

A. THE DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

It is more than evident that the disputed domain name at issue is identical, or – at least – confusingly similar, to the Complainant's trademarks "INTESA" and "INTESA SANPAOLO". As a matter of fact, <LNTESASANPAOLO-AGGIORNAMENTO.COM> is almost identical to my Client's well-known trademark "INTESA SANPAOLO", with the substitution of the letter I with the letter L in the mark's verbal portion "INTESA" (a clear example of typosquatting) and the mere addition of the Italian word "AGGIORNAMENTO", that is merely descriptive.

In support of the above, WIPO jurisprudence offers many examples of confusing similarity brought about through easily made typing errors by an Internet user – mainly when the mark is another language from that of the user's mother tongue."

B. THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DOMAIN NAME

The Respondent has no rights on the disputed domain name, and any use of the trademarks "INTESA SANPAOLO" and "INTESA" has to be authorized by the Complainant. Nobody has been authorized or licensed by the above-mentioned banking group to use the disputed domain name.

The disputed domain name does not correspond to the Respondent's name, and, to the best of Complainant's knowledge, the Respondent is not commonly known as "LNTESASANPAOLO-AGGIORNAMENTO".

The Complainant did not find any fair or non-commercial uses of the disputed domain name as per the website's content at the disputed domain name.

C. THE DOMAIN NAME WAS REGISTERED AND IS USED IN BAD FAITH

The Complainant's trademarks "INTESA SANPAOLO" and "INTESA" are distinctive and well-known worldwide. The fact that the Respondent has registered a domain name that is confusingly similar to them indicates that the Respondent knew of the Complainant's trademark at the time of registration of the disputed domain name. In addition, if the Respondent had carried even a basic Google search regarding the wordings "INTESA SANPAOLO" and "INTESA", the same would have yielded obvious references to the Complainant. This raises a clear inference of knowledge of the Complainant's trademark on the part of the Respondent. Therefore, it is likely that the domain name at issue would not have been registered if not for Complainant's

trademark. This is clear evidence of registration of the disputed domain name in bad faith.

In addition, the disputed domain name is not used for any bona fide offerings. More particularly, present circumstances are indicating that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, 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).

First of all, several services can be detected, but not in good faith: in fact, the disputed domain name is connected to a website sponsoring, among others, banking and financial services, for whom the Complainant's trademarks are registered and used. Consequently, while searching for information on the Complainant's services, Internet users are confusingly led to the websites of the Complainant's competitors, sponsored on the websites connected to the disputed domain name. Therefore, the Complainant deems that the Respondent has registered and is using the domain name at issue to divert traffic away from the Complainant's website intentionally.

The current use of the disputed domain name, which allows accessing to the websites of the Complainant's competitors, also through the Complainant's trademark, causes, as well, significant damages to the latter, due to the misleading of their present clients and to the loss of potential new ones. So, the Respondent's conduct is even worse.

The Respondent's commercial gain is evident since it is obvious that its sponsoring activity is being remunerated.

It is no coincidence that this speculation has involved a big financial institution such as Intesa Sanpaolo. The diversion practice in the banking realm is widespread due to the high number of online banking users. It also has to be pointed out that the Complainant has already been part of other WIPO Cases where the panelists ordered the transfer or the cancellation of the disputed domain names, detecting bad faith in the registrations.

In the light of the above, the third and final element necessary for finding that the Respondent has engaged in abusive domain name registration and use has been established.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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

Based on the case file, the Panel notes that the disputed domain name expired on August 24, 2021. The Registrar, in a communication dated September 30, 2021, responded the following: "In accordance with ICANN Policy Paragraph 11, we have placed the subject domain name on Registrar-Lock and it will remain locked until the conclusion of the administrative proceeding."

Based on the case file and the confirmation of registrar lock by the registrar, 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 the following decision.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has shown it owns rights in the “INTESA SANPAOLO” trademark, with the earliest registration dating back to 2007.

Turning now to the analysis of the confusing similarity between the disputed domain name and the Complainant’s trademarks, the Panel notes the following. Based on the record at hand, the Panel notes that the disputed domain name reproduces the trademark in its totality, namely, “INTESA SANPAOLO”, with a couple of differences worth noting. The first difference is a change in the first letter of the disputed domain name, namely “L” instead of “I”. This is a textbook case of typosquatting. The second difference is that in the disputed domain name, both elements of the trademarks appear without the space dividing the elements.

Additionally, the disputed domain name carries the addition of a hyphen between the two main parts of the disputed domain name. The first part relates to the near-complete reproduction of the trademark, with the two differences pointed out earlier. The second part of the disputed domain name contains the Italian word “AGGIORNAMENTO”. This word is commonly understood to mean “bringing up to date”.

These changes are not substantive enough to dispel the confusing similarity between the first disputed domain name and the Complainant’s trademarks. This addition may enhance the confusing similarity with the Complainant’s trademarks because it could capitalize on the confusion to lure unsuspecting e-banking clients to “bring up to date” its banking details through the website associated with the disputed domain name. However, further analysis will be discussed under the subsequent elements below.

Based on this, the Panel finds the disputed domain name confusingly similar to the Complainant’s trademarks. As a result, the Panel determines that the Complaint has satisfied the first element set under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the evidence on record, and acknowledging that the Respondent failed to produce allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the uncontested facts indicate that a) the Respondent is not authorized or licensed to carry out any activity for the Complainant; b) the Respondent is not affiliated with the Complainant and c) the Respondent is not commonly known by the disputed domain name.

In the Panel view, these assertions are enough to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name (see 2.1 of WIPO 3.0 Overview).

Based on the above and the probability balance, it is difficult to conceive the Respondent having rights or legitimate interest in the disputed domain name. This is closely linked to the potential of having fair or non-commercial uses of the disputed domain name; however, this analysis is better suited under the third element.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Therefore the Complainant has fulfilled the second requirement set under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

As per the record and evidence at hand, the Panel finds that the Respondent was likely aware of the Complainant and targeted the Complainant’s trademark when registering the disputed domain name. This conclusion is reinforced on the balance of probabilities and by the fact that the Respondent most likely appears to evoke a connection to the Complainant’s trademark by including the trademark in its entirety, with a few changes as specified under the analysis of the first element above, as well as with the addition of the hyphen and the Italian word “AGGIORNAMENTO”, which likely appears to capitalize on the confusion to

lure unsuspecting e-banking clients to “bring up to date” its banking details through the website associated to the disputed domain name.

These circumstances in conjunction more than likely indicate that the Respondent was aware of the Complainant and specifically targeted the Complainant to attract, "for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location" as clearly described under paragraph 4(b) of the Policy and 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

D. Decision

For the preceding reasons and as per the provisions contained under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain names to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LNTESASANPAOLO-AGGIORNAMENTO.COM**: Transferred

PANELLISTS

Name	Rodolfo Carlos Rivas Rea
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DATE OF PANEL DECISION	2021-11-04
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Publish the Decision