

Decision for dispute CAC-UDRP-104468

Case number	CAC-UDRP-104468
Time of filing	2022-04-01 09:41:57
Domain names	LNTESAWEBACCESSO.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	Gino Monsignore
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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 is the owner, among others, of the trademark registrations bearing "INTESA SANPAOLO" and "INTESA", such as:

- Int. Trademark no. 920869 – "INTESA SANPAOLO" – Nice Classification: 9, 16, 35, 36, 41, 42 - Date of reg. March 7, 2007;
- EU. Trademark no. 5301999 – "INTESA SANPAOLO" – Nice Classification: 35, 36, 38 - Date of reg. June 16, 2007;
- Int. Trademark no. 793367 – "INTESA" – Nice Classification: 36 - Date of reg. September 4, 2002;
- EU Trademark no. 12247979 "INTESA" – Nice Classification: 9, 16, 35, 36, 38, 41, 42 - Date of reg. May 5, 2014.

Furthermore, the Complainant is the owner of several domain names, bearing "INTESA SANPAOLO" or "INTESA", such as <INTESASANPAOLO.COM>, <INTESA-SANPAOLO.COM> and <INTESA.COM>.

FACTUAL BACKGROUND

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

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

The Complainant is the leading Italian banking group and also one of the protagonists in the European financial arena. The Complainant 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.

The Complainant is among the top banking groups in the euro zone, with a market capitalisation exceeding 44.6 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 throughout Italy, with market shares of more than 17% in most Italian regions, the group offers its services to approximately 13.5 million customers.

The Complainant's 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 disputed domain name <LNTESAWEBACCESSO.COM> has been registered by the Respondent on July 8, 2021.

On 30 May 2017, the Complainant's lawyers sent a cease and desist letter to the Respondent requesting the voluntary transfer of the disputed domain name to the Complainant. Despite this notice, the Respondent did not comply with this request. Currently, the disputed domain name is connected to a website, which has been blocked by Google Safe Browsing through a warning page. The disputed domain name is currently passively held.

The Complainant states, that it is more than obvious that the domain name at issue is identical, or – at least – confusingly similar, to the Complainant's trademarks "INTESA SANPAOLO" and "INTESA". In the opinion of the Complainant, LNTESAWEBACCESSO.COM exactly reproduces the well-known trademark "INTESA", with the mere substitution of the letter "I" with an "L" (a clear example of typosquatting) and the addition of the Italian expression "WEB ACCESSO", meaning "WEB ACCESS".

The Complainant states, that the main purpose of the Respondent was to use the disputed domain name for "phishing" financial information in an attempt to defraud the Complainant's customers and that Google promptly stopped the illicit activity carried out by the Respondent.

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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel considers the contentions of the Complainant as conceded by the Respondent.

A. The disputed domain name is confusingly similar to the trademarks "Intesa" of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to the Complainant's trademarks "Intesa" (within the meaning of paragraph 4(a)(i) of the Policy). The disputed domain name includes the word "LNTESA" and the suffix "webaccesso".

Although the word "LNTESA" begins with a different letter, namely an "L" instead of an "I", this does not destroy the similarity to the Complainant's trademark. This is in particular the case since the confusion of these two letters is a typical typing error. In addition, if "LNTESA" is not written in capital letters, the word is visually identical to the Complainant's trademark: "Inte-sawebaccesso".

Also, the suffix "webaccesso" cannot change the fact that the Complainant's INTESA trademark, as the first and dominant component, is fully recognisable therein on a simple side-by-side comparison. This is in particular the case since "webaccesso" is the Italian term for web access. The Complainant to which the INTESA brand refers is a bank. A customer who wants to log in to his bank account online will only perceive this addition as purely descriptive and will not attribute any independent meaning to it. The addition of the word "webaccesso" therefore constitutes a purely descriptive addition, which does not change the fact that the INTESA brand is fully recognisable within the disputed domain name.

B. The Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of the Policy.

In the absence of any Response of the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented prima facie proof that the Respondent has no rights or legitimate interests within the meaning of 4(a)(ii) of the Policy in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way to use the disputed domain name, and he is not related in any way to the Complainant's business. Moreover, the Respondent has not demonstrated any preparations to use the disputed domain name in connection with a bona fide offering of goods or services. The disputed domain name is connected to a website, which has been blocked by Google Safe Browsing through a warning page. Furthermore, the disputed domain name at stake does not correspond to the name of the Respondent and, to the best of our knowledge, the Respondent is not commonly known as "INTESA" or "LNTESA". It is therefore not apparent that the website is to be used for bona fide reasons.

Therefore, the Panel is of the view that the disputed domain name was registered by the Respondent with the mere intention to obtain financial advantage of the similarity between the disputed domain name and the trademark of the Complainant.

C. The disputed domain name has been registered and is being used in bad faith within the meaning of the Policy.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to have been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

The timing of the registration of the disputed domain name indicates the Respondent's bad faith in registering such domain name, as, at that time, the Complainant's trademarks "INTESA" and "INTESA SANPAOLO" were already known for several years and protected in several countries. The Complainant is also doing business in 25 countries worldwide and is one of the protagonists in the European financial arena. Hence, it seems very plausible, that the Respondent knew the trademark of the Complainant at the time of registration.

Furthermore, the Panel agrees with the Complainant that the use of the disputed domain name is a typical case of typosquatting which in turn is a strong indicator of registration and use of a domain name in bad faith.

Lastly, the fact that the disputed domain name was blocked by Google Safe Browsing does support the Complainant's position. The website connected to the disputed domain name was apparently classified as a dangerous website by Google Safe Browsing. At least this was stated by the Complainant and - due to any missing response - was not disputed by Respondent and, thus, is accepted by the Panel as proven.

Accordingly, the Panel is convinced that the website was intended to be used for "phishing" financial information from the Complainant's customers. A phishing attack is a clear indication that, within the meaning of 4(b)(iv) of the Policy, the use of the disputed domain name intentionally attempted to attract Internet users to a website for commercial gain by creating a likelihood of confusion with the Complainant's trade mark. According to the policy, this is a clear evidence that the disputed domain name is registered and used in bad faith.

The fact that the disputed domain name is currently held passively does not change this. If this fact were to support the Respondent, trademark owners would not be able to enforce their trademark rights in a situation such as the one at hand. The Panel, at least in this kind of cases, regards the passive holding of a domain name in dispute as use of such domain name and, as use in bad faith.

Therefore, the Panel considers the Respondent's conduct to be the manifestation of registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LNTESAWEBACCESSO.COM**: Transferred

PANELLISTS

Name	Dominik Eickemeier
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DATE OF PANEL DECISION 2022-05-05

Publish the Decision
