

Decision for dispute CAC-UDRP-104621

Case number	CAC-UDRP-104621
Time of filing	2022-06-02 09:13:46
Domain names	INTESASHAMPAOLO.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	SANGY Ltd Maurizio Sangineto
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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

According to the evidence submitted by Complainant, Complainant is the owner of multiple trademarks including the European Union trademark INTESA SANPAOLO, number 005301999, registration date 18 June 2007.

FACTUAL BACKGROUND

According to the information provided Complainant is a leading Italian banking group. It is among the top banking groups in the euro zone with a network of approximately 4,700 branches. Moreover, the international network specialized in supporting corporate customers is present in 25 countries, in particular in the Mediterranean area and those areas where Italian companies are most active. Its principal website is “www.intesasanpaolo.com”.

The disputed domain name <intesashampao.com> was registered on 15 January 2022.

The trademark registrations of Complainant have been issued prior to the registration of the disputed domain name.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

According to Complainant the disputed domain name is identical or confusingly similar to Complainant's trademarks. Complainant submits that the disputed domain name exactly reproduces the well-known trademark INTESA SANPAOLO with the mere substitution of the mark's portion "SAN" with the letters "S", "H", "A" and "M" (a clear example of typosquatting).

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Any use of the trademarks of Complainant has to be authorized by Complainant. Nobody has been authorized or licensed by Complainant to use the disputed domain name. The disputed domain name does not correspond to the name of Respondent and, to the best of its knowledge, Respondent is not commonly known as Intesashampalo.

Lastly, any fair or non-commercial uses of the disputed domain name has not been found. Complainant submits that the disputed domain name resolves to a parking pay-per-click page which allows access to the web sites of Complainant's competitors,

According to Complainant the disputed domain name is registered and used in bad faith. Complainant's trademark INTESA SANPAOLO is distinctive. The fact that Respondent has registered a domain name that is confusingly similar to the trademark indicates that Respondent had knowledge of Complainant's trademark at the time of registration of the disputed domain name. It is more than likely that the disputed domain name would not have been registered if it were not for Complainant's trademark. In addition, the disputed domain name is not used for any bona fide offerings. More particularly, Complainant submits that there are circumstances indicating that, by using the disputed domain name, 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. 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 Complainant's trademarks are registered and used.

RESPONDENT:

Respondent submits that he is an Italian artist and that he created a pop art artwork (in advertising style as Andy Warhol examples) with the title of the disputed domain name without any offensive intention or bad faith purpose.

The artwork has been conceived long before receiving the complaint and it is published in an official art catalogue. There is no risk of confusion because the disputed domain name is different and only referred to an artwork with that title of which Respondent is the author.

It's a fantasy name which inside has the concept of the words: "intesa" (a common Italian word) and "shampoo" (common international word).

Finally Respondent submits that no financial service is or will be offered through the disputed domain name.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a domain name is confusingly similar to a complainant's trademark where the domain name incorporates the complainant's trademark or the principal part thereof in its entirety. The European Union trademark of Complainant predates by many years the registration date of the disputed domain name. The principal part of Complainant's trademark INTESA SANPAOLO is incorporated in the disputed domain name with the substitution of the "SAN" part by the descriptive word "sham". The top-level domain ".com" may be disregarded.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademarks or to register the disputed domain name incorporating its marks. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent.

The Panel accepts the undisputed submission, supported by evidence, of Complainant that the disputed domain name resolves to a pay-per-click parking page with links to various financial services, including those of competitors of Complainant, in particular inviting visitors of the page to open an online account.

The Panel finds the submission of Respondent highly unconvincing. No proof of any pop art or any other art work as mentioned by Respondent is submitted nor proof of its publication in an official art catalogue. In addition Respondent does not submit any reason or argument why the disputed domain name resolves to a parking page with pay-per-click links and not to his art work. The Panel also notes that the use of the word "sham" as part of the disputed domain name is unusual as the word means "fraud, deceit" and the word also has other negative connotations. The argument of Respondent that the word "sham" is short for "shampoo" is not to be believed.

Respondent's use of the disputed domain name falsely suggests affiliation with or sponsorship or endorsement by Complainant. Respondent is thus not making 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 trademarks of Complainant. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name (within the meaning of paragraph 4 (a)(ii) of the Policy).

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The trademarks of Complainant are well-known. Respondent knew or in any event should have known that the disputed domain name included Complainant's trademarks.

The Panel notes the undisputed submission of Complainant that the disputed domain name resolves to a website with pay-per-click links leading to various websites, including websites of competitors of Complainant. The Panel further notes that the disputed domain name incorporates the principal part of Complainant's well-known trademark in its entirety, which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTESASHAMPAOLO.COM**: Transferred
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PANELLISTS

Name	Dinant T.L. Oosterbaan
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DATE OF PANEL DECISION 2022-07-14

Publish the Decision