

Decision for dispute CAC-UDRP-104688

Case number	CAC-UDRP-104688
Time of filing	2022-07-04 10:03:43
Domain names	INRTESASANPAOLO.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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	Fundacion Comercio Electronico, Carolina Rodrigues
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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 of several international and EU trademarks "INTESA SANPAOLO" and "INTESA", in particular, the EU trademark No. 5301999 "INTESA SANPAOLO", filed on 8 September 2006, registered on 18 June 2007, in classes 35, 36, 38, EU trademark No. 12247979 "INTESA", filed on 23 October 2013 and registered on 5 March 2014, in classes 9, 16, 35, 36, 38, 41 and 42, international trademark No. 920896 "INTESA SANPAOLO", registered on 7 March 2007 in classes 9, 16, 35, 36, 38, 41 and 42 and international trademark No. 793367 "INTESA", registered on 4 September 2002 and duly renewed, in class 36.

("Complainant's Trademarks").

The disputed domain name was registered on 4 February 2022.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the

Respondent:

(a) The Complainant is among the top banking groups in the euro zone, with a market capitalisation exceeding 39,5 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 16% in most Italian regions, the Group offers its services to approximately 13,5 million customers. Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 1.000 branches and over 7 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.

(b) Moreover, 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.intesasanpaolo.com>.

(c) There is no website operated under the disputed domain name.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(a) The disputed domain name at issue is identical, or – at least – confusingly similar, to Complainant's Trademarks. The disputed domain name exactly reproduces the well-known trademark "INTESA SANPAOLO", with the mere addition of the letter "R" in the mark's word element "INTESA" (a clear example of typosquatting).

(b) The Respondent has no rights to the disputed domain name, and any use of the trademarks "INTESA SANPAOLO" and "INTESA SANPAOLO BANK" has to be authorized by the Complainant. Nobody has been authorized or licensed by the above-mentioned banking group to use the domain name at issue. The disputed domain name does not correspond to the name of the Respondent and, to the best of Complainant's knowledge, the Respondent is not commonly known as "INRTESASANPAOLO". Therefore, the Respondent has no rights or legitimate interest in the disputed domain name.

(c) The Complainant's trademarks "INTESA SANPAOLO" and "INTESA SANPAOLO BANK", are distinctive and well known all around the world. The fact that the Respondent has registered a domain name that is confusingly similar to them indicates that the Respondent had knowledge of the Complainant's Trademarks at the time of registration of the disputed domain name. Also, the Complainant believes that the Respondent registered the disputed domain name with the "phishing" purpose, in order to induce and divert the Complainant's legitimate customers to its website and steal their money and the above could be easily verified given the particular nature of the disputed domain name (typosquatting). Therefore, the Respondent registered and has been using the disputed domain name in bad faith.

RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to Complainant's Trademark within the meaning of

paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyse whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar with the Complainant's Trademarks. It contains the word elements of Complainant's Trademarks (INTESA and SANPAOLO) with slight spelling variation (INRTESASANPAOLO). The Panel believes that such slight spelling variation is not sufficient to avoid confusing similarity to Complainant's Trademarks.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (for

example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel believes that this case is a prima facie example of typosquatting (i.e. intentional attempt to attract, for commercial gain, Internet users to the web site by creating a likelihood of confusion with Complainant's Trademarks) which is one of the model situations of bad faith registration / use of a domain name (paragraph 4(b)(iv) of the Policy). As numerous previous decisions have held, typosquatting as such is evidence of bad faith (please see, for example, WIPO Case No. D2011-1079 bwin.party services (Austria) GmbH v. Interagentur AG; WIPO Case No. D2002-0568, Go Daddy Software, Inc. v. Daniel Hadani; WIPO Case No. D2002-0423 Dell Computer Corporation v. Clinical Evaluations, or WIPO Case No. D2001-0970, Briefing.com Inc v. Cost Net Domain Manager). This applies in particular where the trademark in question is well-known as it is the case of Complainant's Trademarks.

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INRTESASANPAOLO.COM**: Transferred

PANELLISTS

Name	Michal Matějka
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DATE OF PANEL DECISION	2022-08-06
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Publish the Decision
