

Decision for dispute CAC-UDRP-104886

Case number	CAC-UDRP-104886
Time of filing	2022-09-30 09:37:02
Domain names	EURIZONCAPITALINVEST.COM

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	---------------------------------

Complainant

Organization	Intesa Sanpaolo S.p.A.
--------------	------------------------

Complainant representative

Organization	Intesa Sanpaolo S.p.A.
--------------	------------------------

Respondent

Organization	See PrivacyGuardian.org
--------------	-------------------------

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

In these proceedings, the Complainant relies on its following trademarks:

- International trademark registration n. 1338441 "EURIZON", granted on December 15, 2016, in class 36;
- EU trademark registration n. 13847587 "EURIZON", filed on March 18, 2015 and granted on August 31, 2015, in classes 9, 16, 35, 36, 41 and 42;
- EU trademark registration n. 5283460 "EURIZON CAPITAL", filed on August 8, 2006, granted on June 21, 2007 and duly renewed, in class 36;
- EU trademark registration n. 6337349 "EURIZON INVESTIMENTI", filed on October 5, 2007, granted on July 23, 2008 and duly renewed, in classes 9, 16, 35, 36, 41 and 42;
- UK trademark registration n. 3283128 "EURIZON", filed on January 17, 2018, granted on June 22, 2018, in class 36;
- UK trademark registration n. UK00913847587 "EURIZON", filed on March 18, 2015 and granted on August 31, 2015, in classes 9, 16, 35, 36, 41 and 42;
- UK trademark registration n. UK0096337349 "EURIZON INVESTIMENTI", filed on October 5, 2007, granted on July 23, 2008 and duly

renewed, in classes 9, 16, 35, 36, 41 and 42;

- UK trademark registration n. UK0095283460 "EURIZON CAPITAL", filed on August 8, 2006, granted on June 2007 and duly renewed, in class 36; and

- UK trademark registration n. UK00915589492 "EURIZONCAPITAL & device", filed on June 28, 2016 and granted on November 18, 2016, in classes 9, 16, 35, 36, 41 and 42.

It is worth noting that, the Complainant also owns quite a few other registrations for the same/similar trademarks in many countries around the world, which have not been cited in these proceedings.

Further, the Complainant (and/or its affiliated companies) is also the owner, among others, of the following domain names bearing the mark "EURIZONCAPITAL": <EURIZONCAPITAL.COM>, .IT, .CN, .COM.CN, .RU, .ES, .COM.PT, .NL, .CH, .DE, .CO.UK, .FR, .RO, .RS, .TW, .JP, .IN, .ASIA, .COM.BR, .PE, .SK, .HU, .HK and .SI.

FACTUAL BACKGROUND

The Complainant is a large Italian banking group of companies, which emerged in 2007 from two other large Italian banking groups, Banca Intesa S.p.A. and Sanpaolo IMI S.p.A.

According to the evidence filed by the Complainant and not disputed by the Respondent, the Complainant has thousands of branches and millions of customers in Europe, where it figures in the top banking groups, as well as in other large countries of the world. It is quite active in the UK, where the Respondent claims to have its headquarters, as per its own disputed website. The Complainant seems to also be present in Nigeria, where the Respondent is based, through a certain "Eurizon Fund".

The Complainant owns a fair-sized portfolio of trademarks including the wordings "EURIZON", "EURIZON CAPITAL" and "EURIZON INVESTIMENTI", among which notably some EU Trade Mark registrations dating back to 2007. It also owns a multitude of related domain names, like <eurizoncapital.com>, since September 8, 2006.

The disputed domain name <EURIZONCAPITALINVEST.COM> was registered on July 19, 2022 by the Respondent.

PARTIES CONTENTIONS

The Complainant contends that the disputed domain name is confusingly similar to its "EURIZON", "EURIZON CAPITAL" and "EURIZON INVESTIMENTI" trademarks; that the Respondent lacks rights or legitimate interests in the disputed domain name, and; that the Respondent registered and used the disputed domain name in bad faith.

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).

More precisely, the disputed domain name <EURIZONCAPITALINVEST.COM> wholly incorporates the Complainant's International, EU and UK Trademark Registrations for "EURIZON", "EURIZON CAPITAL" and "EURIZON INVESTIMENTI" to which it is highly similar, as well as to its domain name <eurizoncapital.com>. Indeed, the mere addition of the three words is not sufficient to escape the finding of confusing similarity.

As far as the gTLD ".com" is concerned, it is generally recognized that top level domains do not have any bearing in the assessment of identity or confusing similarity, according to paragraph 4(a)(i) of the Policy.

Hence, the Panel is satisfied that the first requirement under the Policy is met.

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).

Since proving a negative fact is almost impossible, panelists in UDRP proceedings have generally agreed that it is sufficient for the

Complainant to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent.

In the case at issue, the Complainant argued that it had never authorised the Respondent to register the "EURIZON", "EURIZON CAPITAL" and "EURIZON INVESTIMENTI" trademarks in a domain name, and that it had never licensed its trademarks to the Respondent, who is not affiliated or doing any business with the Complainant.

Furthermore and finally, there is neither any evidence in the case file that could demonstrate that the Respondent has been commonly known by the disputed domain name, nor is there any non-commercial or fair use of the disputed domain name by the Respondent.

In view of the foregoing, the Panel is satisfied that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. In order to rebut the Complainant's arguments, the Respondent had the possibility to make his own defense. However, the Respondent has chosen not to file a Response.

Therefore, the Panel is satisfied that also the second requirement under the Policy is met.

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).

As far as registration in bad faith is concerned, given the reputation of the Complainant's trademarks, especially in the UK where the Respondent seems to be also based, and the fact that the disputed domain name fully incorporates the said trademarks, it is rather clear to this Panel that, at the time of the registration of the disputed domain name, the Respondent was well aware of the Complainant's trademarks. The registration as domain name of a third party's well-known trademark with full knowledge of the fact that the rights over this trademark belong to a third party amounts to registration in bad faith.

With respect to use in bad faith, the disputed domain name resolves to an active website that offers services of a competitive company, similar to those offered by the Complainant, while using the Complainant's trademarks in a confusing way towards prospective customers. Such use clearly aims at attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant's well-known trademarks and amounts to use in bad faith, especially because the Complainant's trademarks have such a strong reputation that they are widely known, and when it is impossible to conceive any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate. These are precisely the circumstances that apply in the case at issue. The trademarks "EURIZON", "EURIZON CAPITAL" and "EURIZON INVESTIMENTI", as well as the Complainant itself, enjoy wide and extensive reputation in the financial marketplace. Thus, it is impossible to conceive any plausible active use of the disputed domain name that would be legitimate.

Therefore, the Panel finds it clear that the disputed domain name was used in bad faith.

For all circumstances mentioned above, the Panel is satisfied that also the third requirement under the Policy is satisfied.

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

The disputed domain name wholly incorporates the Complainant's trademarks. The disputed domain name is therefore confusingly similar to the Complainant's trademarks.

The Respondent was not authorised to include the Complainant's trademarks in the disputed domain name, and the Complainant never licensed its trademarks to the Respondent. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate non-commercial or fair use.

The Respondent registered the disputed domain name with full knowledge of the Complainant's well-known trademarks. Its use of the disputed domain name is in bad faith, as there is no conceivable use of the disputed domain name that could amount to a legitimate use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. EURIZONCAPITALINVEST.COM: Transferred
-

PANELLISTS

Name	Sozos-Christos Theodoulou
------	---------------------------

DATE OF PANEL DECISION	2022-11-05
------------------------	------------

Publish the Decision
