

Decision for dispute CAC-UDRP-104776

Case number	CAC-UDRP-104776
Time of filing	2022-08-10 09:38:04
Domain names	INTESASASNPAOLO.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	Automatic Domain Dropcatching Registration Service
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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 registrant of the following trademarks:

- International trademark registration n. 920896 "INTESA SANPAOLO", granted on March 7, 2007 and duly renewed, in connection with classes 9, 16, 35, 36, 38, 41 and 42;
- International trademark registration n. 793367 "INTESA", granted on September 4, 2002 and duly renewed, in connection with class 36;
- EU trademark registration n. 5301999 "INTESA SANPAOLO", filed on September 8, 2006, granted on June 18, 2007 and duly renewed, in connection with the classes 35, 36 and 38; and
- EU trademark registration n. 12247979 "INTESA", filed on October 23, 2013 and granted on March 5, 2014, in connection with classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

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

The Complainant, Intesa Sanpaolo S.p.A. is among the top banking groups in the euro zone. It has rights in International and EU registrations for the trademarks INTESA SANPAOLO and INTESA. Its official website is at "www.intesasanpaolo.com".

The disputed domain name is identical or confusingly similar to the Complainant's trademarks. The Respondent has no rights or legitimate interests in respect of the disputed domain name and has not been authorized or licensed by the Complainant to use the disputed domain name. The Respondent is not commonly known as INTESASANPAOLO and is not making any fair or non-commercial use of the disputed domain name, which was registered and is being used in bad faith.

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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

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

- (1) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (3) the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; see also eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire, FA 157287 (Forum June 26, 2003) ('Because Complainant did not produce clear evidence to support its subjective allegations [. . .] the Panel finds it appropriate to dismiss the Complainant').

As to Rights, the Complainant has shown that it has rights in the registered trademarks INTESA SANPAOLO and INTESA noted above. The disputed domain name <intesasnpaolo.com> is confusingly similar to the Complainant's INTESA SANPAOLO mark, since it incorporates the mark in its entirety, merely inserting the letter "s", which does not distinguish the

disputed domain name from the mark. The inconsequential gTLD “.com” may be ignored. The Complainant has established this element.

As to legitimacy, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the disputed domain name for purposes of paragraph 4(a)(ii) of the Policy, i.e.

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Respondent registered the disputed domain name <intesasaspaolo.com> on December 30, 2021, many years after the Complainant has shown that its INTESA SANPAOLO and INTESA marks had become well-known. It resolves to a website offering financial services of the kind provided by the Complainant.

These circumstances, together with Complainant’s assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the dispute domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the <intesasaspaolo.com> domain name. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant has established this element.

As to bad faith, Paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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 its website or location.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant’s well-known INTESA SANPAOLO and INTESA marks when the Respondent registered the <intesasaspaolo.com> domain name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s mark as to the source of the Respondent’s website and of the services promoted on that website. This demonstrates registration and use of the disputed domain name in bad faith to attract users for commercial gain under Policy paragraph 4(b)(iv).

Further, the disputed domain name is a clearly typosquatted version of the Complainant’s well-known INTESA SANPAOLO mark, itself demonstrating bad faith.

The Complainant has established this element.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. INTESASASNPAOLO.COM: Transferred

PANELLISTS

Name	Mr. Alan Lawrence Limbury
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DATE OF PANEL DECISION 2022-09-11

Publish the Decision
