

Decision for dispute CAC-UDRP-104777

Case number	CAC-UDRP-104777
Time of filing	2022-08-10 09:33:50
Domain names	GROUPINTEŠASANPAOLO.COM

Case administrator

Name	Iveta Špiclová (Case admin)
------	-----------------------------

Complainant

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

Complainant representative

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

Respondent

Name	Naomi Chris
------	-------------

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, inter alia, the proprietor of the International trademark registration n. 920896 "INTESA SANPAOLO", registered on March 7, 2007 and duly renewed, in several classes, among them class 36, in several countries, inter alia registered for the European Union.

FACTUAL BACKGROUND

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

The Complainant is a leading Italian banking group and is among the top banking groups in the euro zone, with a market capitalisation exceeding 35 billion euro. 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.

On April 5, 2022, the Respondent registered the disputed domain name. At the time of filing of the Complaint, a website was not active under the disputed domain name. The Complainant sent a warning letter to Respondent for voluntarily transfer of the disputed domain name. A transfer did not take place.

The identity of the registrant of the disputed domain name was initially concealed.

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

The Complainant has established the fact that it has valid trademark rights for "INTESA SANPAOLO". The disputed domain name is confusingly similar to this trademark since the descriptive addition of the element "GROUP" does not have a decisive influence on the similarity of the disputed domain name to the trademark of the Complainant.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark "INTESA SANPAOLO" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "GROUPINTESASANPAOLO" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

In view of the size of the company of the Italian Complainant, the Respondent, allegedly domiciled in the United Kingdom, must have been aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorised the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain name without the Complainant's authorization.

The disputed domain name was not resolving to an active website at the time of filing. However, the consensus view amongst panellists since the decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003, <telstra.org> is that “the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed, the registrant’s concealment of its identity and the implausibility of any good faith use to which the domain name may be put.” In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **GROUPINTEŞASANPAOLO.COM**: Transferred
-

PANELLISTS

Name	Dietrich Beier
------	-----------------------

DATE OF PANEL DECISION **2022-09-20**

Publish the Decision
