

Decision for dispute CAC-UDRP-105157

Case number	CAC-UDRP-105157
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Time of filing	2023-02-01 09:18:36
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Domain names	BANCINTESA.COM
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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

Name	Lianxin Zhou
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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 has proven to be the owner of the INTESA and BANCA INTESA marks.

The Complainant is, inter alia, the owner of the following trademarks:

- International trademark registration no. 920896 "INTESA SANPAOLO", granted on March 7, 2007 and renewed, in classes 9, 16, 35, 36, 38, 41 and 42;
- EU trademark registration no. 12247979 "INTESA", applied on October 23, 2013 and granted on March 5, 2014, in classes 9, 16, 35, 36, 38, 41 and 42;
- EU trademark registration no. 779793 "BANCA INTESA", applied on March 24, 1998, granted on November 15, 1999 and duly renewed, in classes 9, 16, 36, 41 and 42;
- International trademark registration no. 793367 "INTESA", granted on September 4, 2002 and renewed, in connection with class 36;
- International trademark registration no 1032908 "BANCA INTESA", granted on December 18, 2009 and duly renewed, in classes 9, 16, 35, 36, 41, 42 and 45.

FACTUAL BACKGROUND

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

The Complainant is the leading Italian banking group and also one of the major players in the European financial arena. Intesa Sanpaolo is the company resulting from the merger (effective as of January 1, 2007) between Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., two of the top Italian banking groups.

Intesa Sanpaolo is among the top banking groups in the euro-zone, with a market capitalisation exceeding 39,5.0 billion euro, and is the undisputed leader in Italy in all business areas (retail, corporate and wealth management).

Intesa Sanpaolo has a strong presence in Central/Eastern Europe with a network of approximately 950 branches and over 7 million customers. Moreover, its international network for 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.

The Complainant also affirms to be the owner, inter alia, of the following domain names:

<intesa.com>, <intesa.info>, <intesa.biz>, <intesa.org>, <ntesa.us>, <intesa.eu>, <intesa.cn>, <intesa.in>, <intesa.co.uk>, <ntesa.tel>, <intesa.name>, <intesa.xxx>, <intesa.me>, <bancaintesa.com>, <bancaintesa.org>, <bancaintesa.eu>, <bancaintesa.info>, <bancaintesa.net>, <bancaintesa.biz>, <bancaintesa.it>, <bancaintesa.asia>, <bancaintesa.pl>, <bancaintesa.ro>, <bancaintesa.tk>, <bancaintesa.tw> and <bancaintesa.cn>. All of these are connected to the official website www.intesasanpaolo.com.

On August 8, 2021, the Respondent registered the domain name <bancintesa.com>.

The disputed domain name resolves to a website containing gambling links and pornographic images, videos and links.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant contends that the disputed domain name <bancintesa.com> is confusingly similar to its well-known and distinctive trademarks "INTESA SANPAOLO" and "INTESA".

The Complainant further affirms that the disputed domain name represents a clear example of typosquatting.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the renown of the Complainant's trademarks, it is presumable that the Respondent had actual knowledge of the Complainant's distinctive trademarks.

The Complainant further contends that the redirection to pornographic sites from a domain name incorporating a well-known trademark is evidence of bad faith.

In addition, the Complainant, quoting previous UDRP decisions, contends that using a domain name to tarnish a complainant's trademark (e.g., by posting false or defamatory content, including for commercial purposes) may also constitute evidence of a respondent's bad faith, and this surely includes adult content, as in the present case.

RESPONDENT:

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

1. A) Confusing similarity

The Panel agrees with the Complainant's assertions that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark and that the present case represents a clear case of typo-squatting.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears from the document provided by the Complainant that the Respondent is using the disputed domain name and the corresponding website for commercial gain, by redirecting to websites offering goods and/or services unrelated to those of the Complainant, namely gambling links and pornographic images, videos and links.

Lastly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **BANCINTESA.COM**: Transferred

PANELLISTS

Name	Fabrizio Bedarida
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DATE OF PANEL DECISION 2023-03-10

Publish the Decision