

## Decision for dispute CAC-UDRP-105220

Case number	CAC-UDRP-105220
Time of filing	2023-02-23 09:31:45
Domain names	BBBLNTESASANPAOLO.XYZ

### 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	Sandra Verzulli
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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 a relevant Italian banking group with strong presence 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.

The Complainant owns the following Trademarks:

- International trademark registration No. 920896 INTESA SANPAOLO, granted on March 7, 2007 and in force until March 7, 2027, in connection with classes 9, 16, 35, 36, 41 and 42;
- EU trademark registration No. 5301999 INTESA SANPAOLO, filed on September 8, 2006, granted on June 18, 2007 and in force until September 8, 2026, in connection with the classes 35, 36 and 38;
- International trademark registration No. 793367 INTESA, granted on September 4, 2002 and in force until September 4, 2032, in connection with class 36;
- EU trademark registration No. 12247979 INTESA, filed on October 23, 2013 and granted on March 5, 2014, and in force until October 23, 2023, in connection with classes 9, 16, 35, 36 38, 41 and 42;

The disputed domain name <bbblntesasanpaolo.xyz> was registered on **June 6, 2022**.

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## FACTUAL BACKGROUND

The Complainant is a relevant Italian banking group with strong presence 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, it has a market capitalization exceeding 45,8 billion euro, with presence in different business areas as retail, corporate and wealth management. The Complainant has a network of approximately 3,600 branches capillary, distributed throughout Italy, with market shares of more than 16% in most Italian regions, the Complainant offers its services to approximately 13,6 million customers.

The Complainant has a strategic international presence, with over 950 branches and 7.1 million customers, comprising subsidiaries operating in 12 countries in Central-Eastern Europe and Middle Eastern and North African areas and an international network of specialists in support of corporate customers across 25 countries, in particular in the Middle East and North Africa, including in the United States, Russia, China and India.

The Complainant owns the International Trademarks INTESA since September 4, 2002 and INTESA SANPAOLO since March 7, 2007; and European's Trademark rights over INTESA SANPAOLO, since September 8, 2006 and INTESA since October 23, 2013.

The Complainant also owns a domain name's portfolio, based on the Trademarks: INTESA SANPAOLO and INTESA: <intesaspaolo.com>, .org, .eu, .info, .net, .biz; <intesa-sanpaolo.com>, .org, .eu, .info, .net, .biz and <intesa.com>, .info, .biz, .org, .us, .eu, .cn, .in, .co.uk, .tel, .name, .xxx, .me, which are connected to the official website <http://www.intesaspaolo.com>, registered on August 24, 2006.

According to the evidence submitted, the disputed domain name <bbblntesaspaolo.xyz> was registered on June 6, 2022.

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## PARTIES CONTENTIONS

### Respondent

The Respondent did not reply to any of the Complainant's contentions.

### Complainant Contentions:

The Complainant asserts that the disputed domain name is identical, or – at least – confusingly similar, to the Complainant's trademarks "INTESA SANPAOLO" and "INTESA". That as a matter of fact, BBBLNTESASANPAOLO.XYZ exactly reproduces the well-known trademark "INTESA SANPAOLO", with the mere substitution of the letter "I" with the letter "L" in the mark's verbal portion "INTESA", and the addition of the letters "BBB" (BBBLINTESASANPAOLO). That consequently, the disputed domain name represents a clear example of typosquatting.

The Complainant asserts that the Respondent has no rights on the disputed domain name, and any use of the trademarks "INTESA SANPAOLO" and "INTESA" has to be authorized by the Complainant. That nobody has been authorized or licensed by the above-mentioned banking group to use the disputed domain name.

That 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 "BBBLNTESASANPAOLO".

The Complainant does not find any fair or non-commercial uses of the disputed domain name.

That the Complainant's trademarks "INTESA SANPAOLO" and "INTESA" 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 trademark at the time of registration of the disputed domain name; if the Respondent had carried even a basic Google search in respect of the wordings "INTESA SANPAOLO" and "INTESA", the same would have yielded obvious references to the Complainant.

That the disputed domain name is not used for any bona fide offerings; that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website (par. 4(b)(iv) of the Policy).

That several services are offered in bad faith; the disputed domain name is connected to a website sponsoring banking and financial services, for whom the Complainant's trademarks are registered and used: in particular, the disputed website is "dedicated to finding the best money-saving offers"; that consequently, Internet users, while searching for information on the Complainant's services, are confusingly led to the websites of the Complainant's competitors, sponsored on the websites connected to the disputed domain name; that the Complainant deems that the Respondent has registered and is using the disputed domain name in

order to intentionally divert traffic away from the Complainant's website.

On June 16, 2022, the Complainant sent to the Respondent a Cease-and-Desist Letter, asking for the voluntary transfer of the disputed domain name. The Respondent's did not comply with Complainant's request.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

Concerning the First UDRP Element, the Complainant has sufficiently proved before the Panel, that owns International Trademark Registration over the term INTESA since September 4, 2002 (granted date); INTESA SANPAOLO, since March 7, 2007 (granted date) and European's Trademark rights over the term INTESA SANPAOLO, at least since September 8, 2006 (application date), June 18, 2007 (granted date), and INTESA at least since October 23, 2013 (application date), March 5, 2014 (granted date), all of them in force.

The disputed domain name <bbblntesasanpaolo.xyz> registered on **June 6, 2022**, includes the trademark INTESA SANPAOLO, in addition of the letters "BBB" which are perceive by this Panel as meaningless, plus the substitution of the vowel "i" by the consonant "l", combination equivalent to a typosquatting case (see Intesa Sanpaolo S.p.A. v. Contact Privacy Inc. Customer 0143025854 / Gilberto Marzolla, WIPO Case No. D2016-1577).

It is well established by the Domain Name Jurisprudence that for the purposes of the analysis of the First UDRP Element, in this case, the ngTLD ".xyz", is considered "as a standard registration requirement and as such is disregarded under the first element confusing similarity test" (see Section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0").

In relation to the use of a trademark in the disputed domain name plus meaningless terms, Section 1.8 of the WIPO Jurisprudential Overview 3.0 has stated:

"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

In addition of it, Section 1.9 of the WIPO Jurisprudential Overview 3.0, states that:

"A domain name which consists of a common, **obvious**, or **intentional misspelling of a trademark** is considered by panels to be **confusingly similar to the relevant mark** for purposes of the first element.

This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Under the second and third elements, panels will normally find that employing a misspelling in this way signals an intention on the part of the respondent (typically corroborated by infringing website content) to confuse users seeking or expecting the complainant.

Examples of such typos include (i) adjacent keyboard letters, (ii) **substitution of similar-appearing characters** (e.g., upper vs lower-case letters or numbers used to look like letters), (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersing of other terms or numbers.” (emphasis added).

Therefore, this Panel concludes that the disputed domain name <bbblntesasanpaolo.xyz> is confusingly similar to Complainant’s INTESA SANPAOLO trademark.

Concerning the Second UDRP Element, to this Panel it is clear that:

- (1) the Respondent is not associated or affiliated or hasn’t been authorized or licensed by the Complainant to register the disputed domain name.
- (2) there is no favorable evidence towards the Respondent’s concerning the construction of the disputed domain name, by: a well-known trademark as INTESA SAN PAOLO, the (meaningless) addition of the letters “BBB” plus the substitution of the “i” by an “l”.
- (3) there is no evidence that the Respondent corresponds or has become commonly known by the term “bbblntesasanpaolo.xyz”.
- (4) the Respondent is not making a bona fide offering of goods or services, or a legitimate non-commercial or fair use of the disputed domain name, since it resolved to a website, created to intentionally divert traffic away from the Complainant’s website (see Intesa Sanpaolo, S.p.A. vs. lin yanfei, CAC Case No. 105156).

According to the evidence submitted before this Panel, the Complainant has made out its prima facie case and the Respondent did not submit any response or any communication during the entire proceeding rebutting Complainant’s arguments.

Therefore, this Panel concludes that the Respondent to have no rights or legitimate interests in respect of the disputed domain name.

In relation to the Third Element of the UDRP, the Bad Faith, this Panel analyses the following:

Registration in Bad Faith:

In addition to the analysis of the previous two UDRP Elements, and according to the evidence submitted to this Panel, the Complainant acquired its trademark rights over the term INTESA SANPAOLO on September 8, 2006, meaning at least 16 years BEFORE Respondent registered the disputed domain name on June 6, 2022, providing more than sufficient time to “teach” Respondent about Complainant’s value IP assets.

The disclosed Respondent on this case “Sandra Verzulli” seems to be located in the city of Pescara, Italy, being the same Complainant’s country; data that in this Panel’s view, plus the selection of a well-known trademark, to create such elaborated domain name, only emphasizes Respondent’s knowledge concerning Complainant’s business activity and of course, of its well-known Trademarks at the time of the registration of the disputed domain name (see Section 3.2.2. of the WIPO Jurisprudential Overview 3.0).

Therefore, this Panel concludes without hesitation that the disputed domain name was registered with Complainant’s Trademark’s value on mind, meaning that it was registered in bad faith.

Use in Bad Faith:

According to the evidence submitted to this Panel, the Respondent is using the disputed domain name to intentionally divert traffic away from the Complainant’s website.

The Respondent offered several services sponsoring banking and financial services of Complainant’s competitors; in particular, the disputed domain name’s website displayed the following statement: “**dedicated to finding the best money-saving offers**”. This Panel coincides with the Complainant that such use misleads the Internet users, at the moment of a search about Complainant’s bank services and products information, when Internet shall be a safe space, specially towards financial activities.

This Panel also finds that it is must probable that the Respondent’s online activity, it is subject of remuneration, and with all of it, the Respondent falls into paragraph 4(b)(iv) of the Policy, where “the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of his web site”.

Therefore, this Panel concludes that, the disputed domain name is being used in faith as well.

Accepted

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

1. BBBLNTESASANPAOLO.XYZ: Transferred
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## PANELLISTS

Name	María Alejandra López García
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DATE OF PANEL DECISION 2023-03-20

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Publish the Decision

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