

Decision for dispute CAC-UDRP-105801

Case number	CAC-UDRP-105801
Time of filing	2023-09-22 09:34:53
Domain names	ASSISTENZA-FIDEURAM-CLIENTE.COM

Case administrator

Name	Olga Dvořáková (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	Raul Leibowitz Amburn
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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 owner, among others, of the following registrations for the trademark FIDEURAM: - EU trademark registration N° 14404958 for the word FIDEURAM, applied for on 24 July 2015 and registered for goods and services of classes 9, 16, 35, 36, 41 and 42; - EU trademark registration N° 14003685 for the complex trademark FIDEURAM (word and device), applied on 27 April 2015, and registered for goods and services of classes 9, 16, 35, 36, 41 and 42. Moreover, the Complainant is also the owner, among the others, of several domain names that include the word FIDEURAM, in the .it, .com and .eu domains.

FACTUAL BACKGROUND

According to the Complainant, it is a leading Italian banking group and also one of the protagonists in the European financial area. The Complainant is among the top banking groups in the euro zone, with a market capitalisation exceeding 45,53 billion euro, and is the undisputed leader in Italy, in all business areas (retail, corporate and wealth management). Thanks to a network of approximately 3.400 branches, the group of the Complainant offers its services to approximately 13,6 million customers. Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 950 branches and over 7,2 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. According to the Complainant, Fideuram – Intesa Sanpaolo Private Banking (known as FIDEURAM) is the Intesa

Sanpaolo private banking division which serves high net worth individuals with the offering of products and services tailored for this segment. More than 120.000 customers are served through 270 branches by more than 6.600 private bankers. On March 13, 2023 the Respondent registered the disputed domain name ASSISTENZA-FIDEURAM-CLIENTE.COM.

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 disputed domain name is confusingly similar to the Complainant's trademarks. The Panel finds that the disputed domain name is confusingly similar to the Complainant's word and complex trademarks FIDEURAM. The disputed domain name fully incorporates the Complainant's trademarks, albeit with the addition of the Italian terms "ASSISTENZA" (meaning "ASSISTANCE") and "CLIENTE" (meaning "CLIENT"), with obvious references to the support services offered by the Complainant to its customers. The Complainant rightfully contends that the addition of the Italian terms "ASSISTENZA" and "CLIENTE" are not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks. This finding is not being disputed by the Respondent and the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks. 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. The Complainant submits that the Respondent has no rights or legitimate interests in the Domain Name within the meaning of Paragraph 4(a)(ii) of the Policy. Bearing in mind the considerable reputation of the FIDEURAM trademarks in the banking industry, there is no valid reason for registration or use of the disputed domain name other than to take advantage of the Complainant's reputation. The disputed domain name was registered as recently as 13 March 2023, by which time the Complainant already had extensive rights in the FIDEURAM trademarks. The Complainant submits that the disputed domain name resolves to a webpage displaying information that may be deceptive. This circumstance is sufficient to establish prima facie that the Respondent's use of the disputed domain name is not in connection with a bona fide offering of goods or services. The Complainant submits that to the best of its knowledge, the Respondent has never been known as FIDEURAM at any point in time. This is not being disputed by the Respondent. The Complainant submits that the Respondent is not making any legitimate non-commercial or fair use of the disputed domain name and this is not being disputed by the Respondent. Consequently, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name was registered and is being used in bad faith. The Complainant contends that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement, within the meaning of Paragraph 4(b)(iv) of the Policy. The fact that the Respondent has registered a domain name that is confusingly similar to the Complainant's FIDEURAM trademarks indicates that the Respondent knew of the Complainant's trademarks at the time of registration of the disputed domain name. If the Respondent had carried out even a basic Google search in respect of the word "FIDEURAM", this would have yielded obvious references to the

Complainant. Therefore, it is more than likely that the disputed domain name would not have been registered if it were not for the Complainant's trademark. The Complainant contends that the main purpose of the Respondent was to use the disputed domain name for a website for "phishing" financial information to defraud the Complainant's customers. Google has stopped the illicit activity carried out by the Respondent. As underlined by countless WIPO decisions, "phishing" is a form of Internet fraud that aims to steal valuable information such as credit cards, social security numbers, user ID's, passwords, etc. Several WIPO decisions state that the "Use of a disputed domain name for the purpose of defrauding Internet users by the operation of a "phishing" website is perhaps the clearest evidence of registration and use of a domain name in bad faith" (Case No. D2012-2093, The Royal Bank of Scotland Group plc v. Secret Registration Customer ID 232883 / Lauren Terrado; Case No. D2006-0614, Grupo Financiero Inbursa, S.A. de C.V. v. Inbuirsa. In light of the above and given the lack of response by the Respondent, the Panel finds that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ASSISTENZA-FIDEURAM-CLIENTE.COM**: Transferred

PANELLISTS

Name	Tom Heremans
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DATE OF PANEL DECISION 2023-10-30

Publish the Decision
