

Decision for dispute CAC-UDRP-106010

Case number CAC-UDRP-106010

Time of filing 2023-11-27 07:41:34

Domain names INTESAONLINE.SITE

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Intesa Sanpaolo S.p.A.

Complainant representative

Organization Intesa Sanpaolo S.p.A.

Respondent

Organization Liberty-Invest

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 owns several trademark registrations across various jurisdictions, inter alia:

- international trademark No. 793367 "INTESA", since September 4, 2002; and
- EU trademark No. 12247979 "INTESA", March 5, 2014 (hereinafter collectively referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is an Italian banking group resulting from the merger of Banca Intesa and Sanpaolo IMI based in Torre Intesa Sanpaolo, Turin, Italy. It is the leading banking group in Italy and also one of the protagonists in the European financial arena.

The Complainant provides information on its services online inter alia at <intesasanpaolo.com> and owns numerous domain names with its Trademark, such as <intesa.com> and <intesa.info>.

The disputed domain name <intesaonline.site> was registered on May 17, 2023 and is currently used in connection with a placeholder website of the Registrar showing ppc links related to the business sector of the Complainant.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its well-known Trademark at the time of registration of the disputed domain name and that the use of the disputed domain name cannot be for any bone fide offerings. More particularly, there are present circumstances indicating that, by using the 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 web site (par. 4(b)(iv) of the Policy).

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates it. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the Policy despite the addition of generic terms, such as "online" in the present case.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy and that the burden of proof has been reversed and would lie with the Respondent. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and well-established.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith, since the placeholder website is providing for ppc links that are related to the business sector where the Complainant is active, namely the banking sector. The Panel is convinced that the use of the disputed domain name by the Respondent, is intentionally attempting to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of his website (par. 4(b)(iv) of the Policy).

The Respondent failed to file a Response and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name. In the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated good faith use of the disputed domain name by the Respondent. The Panel is convinced that the Respondent's use of the disputed domain name constitutes bad faith use.

In light of the above the Complainant has satisfied its burden under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. INTESAONLINE.SITE: Transferred

PANELLISTS

Name	Stefanie Efstathiou LL.M. mult.
-------------	--

DATE OF PANEL DECISION **2023-12-22**

Publish the Decision
