Decision for dispute CAC-UDRP-106301

Case number	CAC-UDRP-106301
Time of filing	2024-02-29 10:04:45
Domain names	INTESASANPAOLO-APP.COM

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

Name	Luis Gerar

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

According to the evidence submitted by Complainant, Complainant is the owner of multiple trademarks for INTESA SANPAOLO, including the European Union trademark INTESA SANPAOLO, number 005301999, registration date 18 June 2007.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <intesasanpaolo-app.com> was registered on 19 November 2023.

The disputed domain name does not resolve to an active website as the access to the website is blocked for security reasons.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

PARTIES CONTENTIONS

COMPLAINANT:

According to the information provided Complainant is a leading Italian banking group. It is among the top banking groups in the euro zone with a network of approximately 3,700 branches. Moreover, the international network specialized in supporting corporate customers is present in many countries, in particular in the Mediterranean area and those areas where Italian companies are most active.

According to Complainant the disputed domain name is identical or confusingly similar to Complainant's trademark as it is almost identical to Complainant's well-known trademark INTESA SANPAOLO with the mere addition of the term "-app", which refers to a service offered by Complainant to its customers.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Any use of the trademark INTESA SANPAOLO has to be authorized by Complainant. Nobody has been authorized or licensed by Complainant to use the disputed domain name. The disputed domain name does not correspond to the name of Respondent and, to the best of Complainant's knowledge, Respondent is not commonly known as "intesasanpaolo-app.com".

According to Complainant the disputed domain name was registered and is used in bad faith. Complainant asserts that the webpage connected to the disputed domain name is currently blocked by Google Safe Browsing because of suspected phishing activity. Complainant submits that its trademark INTESA SANPAOLO is distinctive and well known all around the world. The fact that Respondent has registered a domain name that is confusingly similar to the trademark indicates that Respondent had knowledge of Complainant's trademark at the time of registration of the disputed domain name.

In addition, the disputed domain name is not used for any bona fide offerings. More in particular, there are present circumstances indicating that, by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website. The disputed domain name is not used for any bona fide offerings, considering that the same is connected to a website which has been blocked by Google Safe Browsing through a warning page. It is clear that the main purpose of Respondent was to use the above website for phishing financial information or other illicit use of the disputed domain name in an attempt to defraud Complainant's customers and that Google promptly stopped the illicit activity carried out by Respondent.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark (within the meaning of paragraph 4 (a)(i) of the Policy). Many UDRP decisions have found that a domain name is confusingly similar to a complainant's

trademark where the domain name incorporates the complainant's trademark or the principal part thereof in its entirety. The European Union trademark of Complainant predate by many years the registration date of the disputed domain name. Complainant's European Union trademark INTESA SANPAOLO is entirely incorporated in the disputed domain name with the addition of the generic IT term "-app", which generic term can be disregarded. The generic Top-Level Domain ("gTLD") ".com" is also disregarded under the first element confusing similarity test.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademarks or to register the disputed domain name incorporating its marks. Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent.

Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name (within the meaning of paragraph 4 (a)(ii) of the Policy).

The Panel finds that 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). The trademarks of Complainant are well-known. Respondent knew or in any event should have known that the disputed domain name included Complainant's trademarks.
The Panel notes that the disputed domain name currently does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0).

The Panel also notes the undisputed submission of Complainant, supported by evidence, that the risk of wrongful use of the disputed domain name issue is high in the present case. In particular the Panel notes that disputed domain name is connected to a website which has been blocked by Google Safe Browsing through the following warning page:

"Sito pericoloso. Gli utenti malintenzionati sul sito che stai cercando di visitare potrebbero indurti con l'inganno a installare software o a rivelare informazioni come la password, il numero di telefono o della carta di credito. Chrome consiglia vivamente di tornare indietro"; (translation: "Dangerous site. Malicious users on the site you are trying to visit could trick you into deception into installing software or revealing information such as your password, phone number phone or credit card number. Chrome strongly recommends turning back").

Multiple panels under the UDRP have held that the use of a domain name for illegal activity - as in this case phishing - can never confer rights or legitimate interests on a respondent and constitutes bad faith.

This indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INTESASANPAOLO-APP.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-03-27

Publish the Decision