Decision for dispute CAC-UDRP-106708

Case number	CAC-UDRP-106708
Time of filing	2024-07-18 09:28:54
Domain names	INTESANPAOLO.ORG

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Intesa Sanpaolo S.p.A.

Respondent

Organization	See PrivacyGuardian.org

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 of various trademark registrations for “INTESA SANPAOLO” and “INTESA”, including the following:

- International trademark registration no. 920896 for INTESA SANPAOLO, registered on 7 March 2007;

- International trademark registration no. 793367 for INTESA, registered on 4 September 2002;

- European Union trademark registration no. 5301999 for INTESA SANPAOLO, registered on 18 June 2007; and

- European Union trademark registration no. 12247979 for INTESA, registered on 5 March 2014.

The Complainant owns various domain names, including its primary domain name <intesasanpaolo.com>, registered on 24 August 2006.

The disputed domain name was registered on 5 June 2024.

FACTUAL BACKGROUND

Complainant is an Italian banking group formed from the merger of Banca Intesa S.p.A and Sanpaolo IMI S.p.A on 1 January 2007. It has a market capitalisation of over 63.5 billion Euros. It offers its services to over 13.6 million customers in over 25 countries, including in the United States.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark registrations of the INTESA SANPAOLO and INTESA marks.

In this case, the disputed domain name is a typosquatted version of the Complainant's INTESA SANPAOLO trademark with the deletion of the letters "S and "A". It is well-established that where the relevant trademark is recognizable within the disputed domain name, the deletion of letters 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. (see WIPO Overview 3.0, section 1.8).

In addition, the disputed domain name comprises the Complainant's INTESA SANPAOLO trademark and the generic Top-Level Domain ("gTLD") ".org". It is well established that the addition of a gTLD ".org" does not avoid confusing similarity between the Complainant's trademark and the disputed domain name (see WIPO Overview 3.0, section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain

name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations of the INTESA SANPAOLO and INTESA marks long before the date that the disputed domain name was registered and that it is not licensed or otherwise authorised the Respondent to use the Complainant's trademark.

The Complainant also provided evidence that the Respondent is not commonly known by the disputed domain name. See WIPO Overview 3.0, section 2.3. The Complainant has not consented to the use of its INTESA SANPAOLO and/or INTESA trademark(s) in the disputed domain name.

It is noted that the disputed domain name resolves to a webpage that resembles and Complainant's website, displays the Complainant's INTESA SANPAOLO trademark prominently, and offers financial services which compete with those offered by the Complainant. Such use cannot be considered a legitimate interest in the disputed domain name.

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's prima facie case.

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

C. Registered and Used in Bad Faith

The Complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant provided evidence that the disputed domain name resolves to a webpage that displays the Complainant's INTESA SANPAOLO trademark prominently and offers services which appear to compete with those offered by the Complainant. Such use is clear evidence of bad faith.

The disputed domain name consists of a typosquatted version of the Complainant's INTESA SANPAOLO trademark with the addition of the gTLD ".org". This is likely an attempt to confuse Internet users as the owner of the disputed domain name. The Panel finds that the composition of the disputed domain name coupled with the use of Complainant's mark on the website under the disputed domain name is evidence of bad faith registration and use.

Moreover, the Complainant has submitted evidence which shows that the Respondent registered the disputed domain name long after the Complainant registered the INTESA SANPAOLO and/or INTESA trademarks. Given that the INTESA SANPAOLO and/or INTESA marks are highly distinctive, it is unlikely that the Respondent was not aware of the Complainant prior to the registration of the disputed domain name. In view of the evidence presented to the Panel, the Panel finds that it is highly likely that the Respondent was aware of the Complainant and its INTESA SANPAOLO and/or INTESA trademarks at the time of registering the disputed domain name and specifically targeted the Complainant for an unknown reason.

The Respondent failed to submit a response and did not provide any explanation for registering the disputed domain name nor evidence of good-faith use.

Accordingly, given the particular circumstances of this case, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith and therefore the Complainant has met 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. **INTESANPAOLO.ORG**: Transferred

PANELLISTS

Name	**Jonathan Agmon**

DATE OF PANEL DECISION 2024-08-22

Publish the Decision