Decision for dispute CAC-UDRP-106776

Case number	CAC-UDRP-106776
Time of filing	2024-08-08 09:44:32
Domain names	ACCESSO-VELOCE-FIDEURAM.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

Organization	Herre

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 FIDEURAM and FIDEURAM INTESA SANPAOLO PRIVATE BANKING, including the following:

EU trademark registration No. 14404958 for FIDEURAM, registered on December 9, 2015;

EU trademark registration No. 14001499 for FIDEURAM INTESA SANPAOLO PRIVATE BANKING, registered on September 17, 2015; and

U.S. trademark registration No. 6757032 for FIDEURAM, registered on June 14, 2022.

FACTUAL BACKGROUND

The Complainant is a leading Italian banking group which was established on January 1, 2007 as a result of a merger between Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., two of the top Italian banking groups.

The Complainant has a market capitalisation exceeding 63.5 billion Euros. It has a network of around 3,300 branches throughout

Italy and has around 13.6 million customers in Italy. It also has over 900 branches in Central-Eastern Europe with over 7.3 million customers. It also has a presence in over 25 countries, including the U.S., China, India and Russia.

The Complainant's parent company is Fideuram - Intesa Sanpaolo Private Banking ("Fideuram"). Only Fideuram and the Complainant are authorized to use the FIDEURAM and FIDEURAM INTESA SANPAOLO PRIVATE BANKING trademarks.

The Complainant owns and operates various domain names containing the sign FIDEURM, including:

- <fideurambanca.it>;
- <fideurambank.org>;
- <fideuramdirect.it>;
- <fideuramdirect.com>;
- <fideuramluxprivate.lu>;
- <financierefideuram.com>;
- <fideuramuk.it>;
- <fideuramuk.com>;
- <fideuramintesasanpaoloprivatebanking.com>; and
- <fideuramintesasanpaoloprivatebanking.eu>.

The Respondent is Foxe Re of Ramona Pl 28a, Del Mar, CA 92014, U.S.

The Respondent registered the disputed domain name on July 1, 2024. The disputed domain name resolved to a website that requested that users input their banking login details. As at the time of filing of the Complaint, the disputed domain name resolved to an inactive webpage.

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 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 registered trademark rights in the word “Fideuram”.

The disputed domain name contains the entirety of the Complainant’s FIDEURAM trademark with the addition of the term “accesso-veloce-“, which in Italian means “quick access”. In this case, the Complainant’s FIDEURAM trademark is recognisable within the disputed domain name. The addition of the other descriptive terms does not prevent a finding of confusing similarity but in fact add to the confusion with the Complainant’s trade mark. See sections 1.7 and 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“the WIPO Overview 3.0”).

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

B. Rights or Legitimate Interests

Once a 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 a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Complainant provided evidence that it owns trademark rights in the FIDEURAM mark long before the date that the disputed domain name was registered. The Respondent is not affiliated with the Complainant and there is no evidence that the Respondent was licensed or otherwise authorized by the Complainant to use the Complainant’s FIDEURAM trademark or to register it in a domain name.

The Respondent did not submit a Response and did not provide any explanation or evidence to show it has 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)).

The FIDEURAM mark is a distinctive and famous mark, having been registered and used for many years across many countries, and not only in Italy. The Respondent registered the disputed domain name long after the Complainant registered the FIDEURAM trademark. It is evident to the Panel from the composition of the disputed domain name that the Respondent knew of the Complainant and its FIDEURAM trademark and specifically targeted it for bad faith use purposes. The Respondent’s website was used to access personal online bank account information of users. The webpage consisted of a login page, inviting Internet users to enter their username and PIN. This is a textbook case of a phishing scam, which is evidence of bad faith. (See section 3.4, WIPO Overview 3.0.) This is especially so since “accesso veloce” translates to “fast/quick access” in Italian, which is likely to mislead Internet users into believing that the disputed domain name is a portal operated by the Complainant, for its customers to quickly access their bank account.

The Panel is persuaded that the Respondent was fully aware of the Complainant and its trademark rights in FIDEURAM when he registered the disputed domain name and sought to impersonate the Complainant and/or an its parent company, Fideuram, and to divert Internet traffic away from the Complainant’s own website for illicit purposes such as phishing and/or identity theft.

The fact that the disputed domain name now resolves to an inactive webpage does not alter the fact that the Complainant brought evidence of bad faith registration and use of the disputed domain name. Even the passive holding of the disputed domain name in this case would be considered bad faith registration and use when one applies the well-established principles governing the passive holding of trade marks (See section 3.3, WIPO Overview 3.0.). The Panel considers the following factors to be evidence of bad faith registration and use of the disputed domain name notwithstanding the current passive holding:

(i) the disputed domain name contains a distinctive and well-known trademark of the Complainant;

(ii) the Respondent failed to submit a response or to provide any evidence of actual or contemplated good-faith use; and

(iii) the implausibility of any good faith use to which the disputed domain name may be put.

The Panel therefore concludes that the disputed domain name was registered and 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. **ACCESSO-VELOCE-FIDEURAM.COM**: Transferred

PANELLISTS

Name	**Francine Tan**

DATE OF PANEL DECISION 2024-09-09

Publish the Decision