Decision for dispute CAC-UDRP-106894

Case number	CAC-UDRP-106894
Time of filing	2024-09-26 13:17:08
Domain names	INBIZ-INTEASANPAOLO.COM

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Intesa Sanpaolo S.p.A.

Respondent

Organization	sfkjo403i4f4f

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 the following registered trademarks:

International Registered Trademarks:

International Registered Trademark Number 920896 for the word mark INTESA SANPAOLO, registered on March 7, 2007 in Classes 9, 16, 35, 36, 38, 41 and 42 and designated in respect of multiple territories, including the United States of America.

International Registered Trademark Number 1024681 for the word mark IN BIZ, registered on November 5, 2009 in Class 36 and designated in respect of multiple territories including the United States of America.

European Union Registered Trademarks:

European Union Registered Trademark Number 5301999 for the word mark INTESA SANPAOLO, registered on June 18, 2007 in Classes 35, 36 and 38.

European Union Registered Trademark Number 8611287 for the word mark IN BIZ, registered on March 8, 2010 in Class 36.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a leading Italian banking group in the European financial area, resulting from a merger (effective as of January 1, 2007) between Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., formerly two Italian banking groups.

The Complainant is among the top banking groups in the euro zone, with a market capitalisation exceeding EUR 68.8 billion, and is a leader in Italy in all business areas (retail, corporate and wealth management). The Complainant's group offers its services to approximately 13.6 million customers by way of a network of approximately 3,300 branches, with market shares of more than 15% in most Italian regions. The Complainant has a strong presence in Central-Eastern Europe with a network of approximately 900 branches, and over 7.4 million customers. The Complainant also has an international network specialised in supporting corporate customers, which 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 of America, Russia, China, and India.

The Complainant is the owner of registered trademarks for the word marks IN BIZ and INTESA SANPAOLO, namely those noted in the Identification of Rights section above. The Complainant is also the owner, among others, of various domain names bearing these signs, including, for example, <inbiz.app>, <inbizintesasanpaolo.com>, and <intesasanpaolo.com>.

According to the corresponding WhoIs record, the disputed domain name was registered on April 29, 2024. The Complainant notes that when attempting to access the website associated with the disputed domain name, an error message is returned indicating that the page does not work.

On June 3, 2024, the Complainant's attorneys sent a cease and desist letter to the Respondent asking for the voluntary transfer of the disputed domain name. The Respondent did not reply to said letter.

PARTIES CONTENTIONS

Complainant:

The Respondent registered a domain name that is identical or confusingly similar to the Complainant's marks. It clearly consists of a misspelling, which is confusingly similar to the Complainant's registered INBIZ and INTESASANPAOLO trademarks. The only difference between the disputed domain name and said marks is the omission of the letter "S" from the word "INTESA". This is a clear example of typosquatting.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has no relationship with the Respondent and has not licensed or otherwise authorized the Respondent to use the INBIZ and INTESASANPAOLO trademarks in the disputed domain name. In the absence of such license or authorization, no actual or contemplated bona fide or legitimate use of the disputed domain name can reasonably be claimed. No credible evidence has been produced by the Respondent or is otherwise available that the Respondent is commonly known by the disputed domain name. The Respondent is not making any fair or non-commercial use of the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Complainant's trademarks IN BIZ and INTESA SANPAOLO are distinctive and well-known all around the world. The fact that the Respondent has registered a domain name that is confusingly similar to them indicates that the Respondent had knowledge of the Complainant's trademarks at the time of registration of the disputed domain name.

In addition, if the Respondent had carried out even a basic Google search in respect of the wordings "IN BIZ", "INTESA SANPAOLO" and "INBIZ INTEASANPAOLO", the same would have yielded obvious references to the Complainant. This raises a clear inference of knowledge of the Complainant's trademark on the part of the Respondent. Therefore, it is more than likely that the disputed domain name would not have been registered if it were not for the Complainant's trademarks.

The disputed domain name is not used for any bona fide offering of goods or services. More particularly, there are circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name.

The disputed domain name is not connected to any web site and is being passively held. Countless UDRP decisions have confirmed that the passive holding of a domain name with knowledge that the domain name infringes another party's trademark rights is evidence of bad faith registration and use. In particular, the consensus view of WIPO UDRP panellists is that passive holding of a disputed domain name may, in appropriate circumstances, be consistent with a finding of bad faith. Such circumstances include, for example, where a complainant's mark is well-known, and there is no conceivable use that could be made of the domain name that would not amount to an infringement of the complainant's trade mark rights.

As regards to the first aspect, the Complainant has already extensively proved the notoriety of its trademarks. With regard to the second circumstance, the Complainant notes that it is objectively not possible to understand what kind of use the Respondent could make of the disputed domain name, which almost exactly corresponds to the Complainant's trademarks and to the Complainant's domain names that are currently used to provide online banking services.

The risk of a wrongful use of the disputed domain name is even higher in the present case, since the Complainant has already been targeted by some cases of phishing in the past few years.

On June 3, 2024, the Complainant's attorneys sent a cease and desist letter to the Respondent asking for the voluntary transfer of the disputed domain name. Despite such communication, the Respondent did not comply with the above request.

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

The Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its IN BIZ trademark by virtue of International Registered Trademark number 1024681 and in its INTESA SANPAOLO trademark by virtue of International Registered Trademark number 920896.

The Second-Level Domain of the disputed domain name is a typographical variant of a combination of the said trademarks where the letter "s" has been omitted from the word element "INTESA" in the Complainant's corresponding mark.

Notwithstanding the spelling variation, the Panel considers that the Complainant's marks are fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy, as is the hyphen which merely acts as a spacer between two elements of the Second-Level Domain of the disputed domain name. The absence of spaces between the words "in" and "biz", and between the typographical variant "intea" and the word "sanpaolo" is also of no significance, since spaces cannot be used in domain names for technical reasons. In all of these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's IN BIZ and INTESA SANPAOLO trademarks.

With regard to the second element of the Policy, the Complainant asserts that it has no relationship with the Respondent and has not licensed or otherwise authorized it to use the IN BIZ and INTESA SANPAOLO trademarks in the disputed domain name. The Complainant affirms that no credible evidence has been produced by the Respondent, or is otherwise available, indicating that the Respondent is commonly known by the disputed domain name. The Complainant contends that the disputed domain name amounts to a typographical variant of the Complainant's marks, which seems to be designed to impersonate the Complainant's own domain names.

The Panel finds that the Complainant's various contentions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0")). In particular, the Panel accepts that the disputed domain name is more probably than not a typosquatted or intentionally registered typographical variant of

the Complainant's trademarks, which is intended to take unfair advantage of Internet users' errors in misperceiving the disputed domain name as the Complainant's marks. It is significant in this context that the Second-Level Domain of the disputed domain name is, with the exception of the missing letter "s", identical or very similar to domain names used by the Complainant to provide its banking services online.

The Panel finds on the balance of probabilities that the disputed domain name has been registered and is being used for the purposes of typosquatting, and ultimately for confusing the public into believing that it is associated with the Complainant and its banking services when it is not. This cannot confer rights and legitimate interests upon the Respondent.

The Respondent has not replied to the Complainant's allegations and evidence in this case and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

As indicated above, the disputed domain name appears to the Panel to be an intentionally designed typosquatting variant of the Complainant's marks. The evidence before the Panel shows that the Complainant's marks are of a longstanding nature, significantly pre-dating the date of registration of the disputed domain name, and are well-known. Said marks are in widespread use worldwide in association with the Complainant's banking services. The disputed domain name combines both of said marks in a manner which is clearly intended to imitate the Complainant's own domain names. In these circumstances, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with knowledge of the Complainant and its rights, and (given the typographical variation of one of the Complainant's marks) with an intent to target these.

There appears to the Panel to be no possible good faith reason for the Respondent to have selected the disputed domain name and no potential good faith use to which the disputed domain name could be put, given the extent to which it imitates the Complainant's own marks and domain names.

The Panel accepts the Complainant's contention that the disputed domain name is being passively held and that, in the circumstances where the Complainant's marks are well-known and where there does not appear to be any possible legitimate use of the disputed domain name, such passive holding constitutes use in bad faith. The very fact of the Respondent registering the disputed domain name in such circumstances raises a reasonable probability of the Respondent using it in a manner that unfairly targets the Complainant's rights, for example by means of phishing attacks, or other wrongful acts of impersonation, and thereby constitutes use in bad faith.

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith. The Respondent has not filed a Response in this case and therefore has not addressed the Complainant's assertions of bad faith registration and use to any extent. No explanation has been presented by the Respondent that might have suggested that its actions regarding the disputed domain name were in good faith.

The Panel therefore finds that the disputed domain name has been 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. **INBIZ-INTEASANPAOLO.COM**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2024-10-28

Publish the Decision