Decision for dispute CAC-UDRP-106892

Case number	CAC-UDRP-106892
Time of filing	2024-09-26 14:48:40
Domain names	ACCESSO-INTESASANPAOLO.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	MorganSolutions

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 has proved to own the following trademark rights:

- International trademark registration no. 920896 “INTESA SANPAOLO” dated March 7, 2007 and duly renewed in classes 9, 16, 35, 36, 38, 41 and 42;
- International trademark registration no. 793367 “INTESA” dated September 4, 2002 and duly renewed, in class 36;
- EU trademark registration no. 5301999 “INTESA SANPAOLO” dated September 8, 2006 and duly renewed, in classes 35, 36 and 38;
- EU trademark registration no. 12247979 “INTESA” dated October 23, 2013 and duly renewed in classes 9, 16, 35, 36, 38, 41 and 42.

Besides, the Complainant also owns several domain names bearing the “INTESA SANPAOLO”, and “INTESA” signs, namely: INTESASANPAOLO.COM, .ORG, .EU, .INFO, .NET, .BIZ, INTESA-SANPAOLO.COM, .ORG, .EU, .INFO, .NET, .BIZ and INTESA.COM, INTESA.INFO, INTESA.BIZ, INTESA.ORG.

All of them are now connected to the official website http://www.intesasanpaolo.com.

The Complainant submitted the following documents to prove the abovementioned facts:

- Information regarding the Complainant

- Complainant’s trademarks registrations
- Website related to the disputed domain name
- Google search for “INTESA SANPAOLO”
- WIPO Decisions n. D2000-0003 Telstra Corporation Limited v. Nuclear Marshmallows, and D2004-0615, Comerica Inc. v. Horoshiy, Inc.
- Cease-and-desist letter addressed to the domain name owner.

FACTUAL BACKGROUND

The Complainant is a leading Italian banking group and also one of the protagonists in the European financial area. Intesa Sanpaolo is the company resulting from the merger (effective as of January 1, 2007) between Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., two of the top Italian banking groups. Intesa Sanpaolo is among the top banking groups in the euro zone, with a market capitalization exceeding 68,88 billion euro, and the undisputed leader in Italy, in all business areas (retail, corporate and wealth management).

Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 900 branches and over 7,4 million customers. Moreover, the international network specialized in supporting corporate customers 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, Russia, China and India.

The Respondent registered the disputed domain name <accessointesasanpaolo.com> on October 22, 2023 and said domain name resolves to an inactive page.

PARTIES CONTENTIONS

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

Identity (paragraph 4(a)(i) of the Policy)

The Panel finds that the domain name <accessointesasanpaolo.com> is confusingly similar to the Complainant's INTESA SANPAOLO and INTESA trademarks.

Firstly, the Complainant's INTESA SANPAOLO trademark is incorporated in the disputed domain name in its entirety.

Secondly, the TLD ".com" as well as the mere addition of the generic term "accesso" (meaning "access" and which could refer to the Complainant's login service) do not prevent the similarity between the Complainant's trademarks and the aforementioned domain name.

Thus, the Panel finds that disputed domain name is confusing and does not provide additional specification or sufficient distinction from the Complainant or its trademark.

Absence of Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy)

The Complainant asserted that the Respondent has never been granted a license, or any other way been authorized, in order to register the disputed domain name. In addition, the Respondent never sought the consent of the Complainant in order to register the aforementioned domain name. Consequently, the Panel finds that the Respondent lacks any right or legitimate interest in using the disputed domain name.

The disputed domain name resolves to an inactive page. Therefore, there is no evidence of any use or preparations to use of the disputed domain name in connection with a bona fide offering of goods or services, nor of any legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

Finally, the Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain name. However, by failing to file a response, the Respondent has missed this opportunity and the Panel is entitled to draw such inferences from the Respondent's failure as it considers appropriate in accordance with Paragraph 14 of the Rules.

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

Bad faith (paragraph 4(a)(iii) of the Policy)

In the light of the records, the Complainant showed the disputed domain name is consequently similar to the INTESA SANPAOLO and INTESA trademarks. The Panel finds that the Respondent cannot reasonably pretend he was intending to develop a legitimate activity through the disputed domain name. Moreover, the time of the registration, namely on October 22, 2023, is well posterior to the registration of the INTESA SANPAOLO and INTESA trademarks

Therefore, it is clear to the Panel that the Respondent was well aware of the INTESA SANPAOLO and INTESA trademarks and has registered the dispute domain name with the intention to refer to the Complainant and to its trademarks.

Furthermore, the disputed domain name resolves to an inactive page; one that could cause confusion among internet users as to the source and purpose of the domain name. From the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

To the Panel's opinion, this shows that the disputed domain name was 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. **ACCESSO-INTESASANPAOLO.COM**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2024-11-07