Decision for dispute CAC-UDRP-107093

Case number	CAC-UDRP-107093
Time of filing	2024-12-02 09:52:58
Domain names	ISPGROUPINTESA.SERVICES

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Intesa Sanpaolo S.p.A.

Complainant representative

Organization	Intesa Sanpaolo S.p.A.

Respondent

Organization	NA

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

EU Trademark Registration No. 012247979 INTESA registered for various goods and services in multiple classes.

FACTUAL BACKGROUND

The Complainant is the leading Italian banking group and also one of the protagonists in the European financial arena. 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 capitalisation exceeding 70,1 billion euro, and the leader in Italy, in many business areas (retail, corporate and wealth management). Thanks to a network of approximately 3,300 branches capillary and well distributed throughout the country, with market shares of more than 15 % in most Italian regions, the Group offers its services to approximately 13,7 million customers. Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 900 branches and over 7,5 million customers. Moreover, the international network specialised 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 Complainant is the owner of numerous trademarks containing or consisting of the word INTESA, including, but not limited to,

the above mentioned registration. Its name is also regularly abbreviated to ISP and it owns an EU trademark registration consisting of that accronym.

Moreover, the Complainant is also the owner, among the others, of the following domain names bearing the signs “INTESA SANPAOLO”, “INTESA” and “GRUPPO INTESA”: <INTESASANPAOLO.COM>, .<INTESA SANPAOLO.COM>, <INTESA.COM>, <INTESA.INFO>, <INTESA.BIZ>, <INTESA.ORG>, <INTESA.US>, <INTESA.EU>, <INTESA.CN>, <INTESA.IN>, <INTESA.CO.UK>, <INTESA.TEL>, <INTESA.NAME>, <INTESA.XXX>, <INTESA.ME>, <GRUPPOINTESA.COM>, <GRUPPOINTESA.IT>, <GRUPPOINTESA.EU>, <GRUPPOINTESA.US>, <GRUPPOINTESA.ORG> and <GRUPPOINTESA.NE>. All of them are now connected to the official website http://www.intesasanpaolo.com.

On August 9, 2024 the Respondent registered the disputed domain name. When attempting to access the website to which the disputed domain name directs the Complainant was blocked by Google Safe Browsing and a warning appeared indicating a suspicion that the disputed domain name had been used for phishing. Having received this warning, on October 4, 2024 the Complainant’s attorneys sent to the Respondent a cease and desist letter setting out such facts and asking for the voluntary transfer of the disputed domain name at issue. The Respondent did not comply with this request.

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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and

2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above the Complainant asserts it has a number of trademark registrations consisting of the words “INTESA”. At least one of these registrations predates the registration date of the disputed domain name by over a decade.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO May 7, 2001); see also WIPO Case Nos. D2012 0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark “INTESA”.

The next question is whether the disputed domain name is confusingly similar to the “INTESA” trademark.

The Panel disregards the gTLD suffix ".services" for the purpose of this comparison. It is of no brand significance and it is likely to be totally ignored by web users.

Further, the ISPGROUP elements are less striking to eye of consumers. Especially when it is an undisputed fact that ISP is an abbreviation of the Complainant's name and a registered trademark itself. On balance, it is the distinctive INTESA element that will strike the eye of a consumer.

The disputed domain name is therefore confusingly similar to the "INTESA" trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name according to information provided by the registrar for the disputed domain name is "Simone Bocchetti". This name bears no resemblance to "ISPGROUPINTESA". Further, there is no evidence of the disputed domain name resolving to a website with particular content which would indicate any right or legitimate interest in the disputed domain name since attempted access by the Complainant was blocked by Google Safe Browsing.

The Respondent has no rights or interests in the disputed domain name.

BAD FAITH

The Complainant has evidence for a long standing international reputation in its well known “INTESA” trademark. Further, given the unique nature of that trademark it is highly unlikely that the Respondent registering a disputed domain name consisting of the words "ISPGROUPINTESA" would not have known of the Complainant. It is particularly noted that ISP is also a registered mark belonging to the Complainant. Given such striking similarities, the Panel finds it is inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's rights.

The Panel finds that the Respondent had such prior knowledge at the time of registering the disputed domain name and therefore its only purpose in registering the disputed domain name was to opportunistically profit from confusing similarity. The Respondent clearly targeted the Complainant's well-known trademark for this purpose.

Having made this finding, it is of further great concern that a Google Safe Browsing warning indicates the disputed domain name may have been used for phishing. Whilst such a warning is essentially hearsay evidence and not conclusive by itself in making a finding that such phishing has occurred it is telling that the Respondent has been put on notice of this allegation (both in correspondence and through this Complaint) and has failed to provide any alternate explanation.

Therefore, in consideration of all the circumstances 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. **ISPGROUPINTESA.SERVICES**: Transferred

PANELLISTS

Name	**Andrew Sykes**

DATE OF PANEL DECISION 2025-01-03

Publish the Decision