

Decision for dispute CAC-UDRP-105682

Case number	CAC-UDRP-105682
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Time of filing	2023-08-03 09:27:55
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Domain names	FLDEURAM.COM
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	Intesa Sanpaolo S.p.A.
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Complainant representative

Organization	Intesa Sanpaolo S.p.A.
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Respondent

Organization	Sahad Mohammed Riviera (Sahari Muti Inc)
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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 Intesa Sanpaolo is the owner, among others, of the following registrations for the trademark "FIDEURAM":

- EU trademark registration n. 14404958 "FIDEURAM", applied on July 24, 2015 and granted on December 9, 2015, in classes 9, 16, 35, 36, 41 and 42;

- EU trademark registration n. 14003685 "FIDEURAM & device", applied on April 27, 2015, granted on September 17, 2015, in classes 9, 16, 35, 36, 41 and 42.

Moreover, the Complainant is also the owner, among the others, of the following domain names bearing the sign "FIDEURAM": <FIDEURAMBANCA.IT>, <FIDEURAMBANK.ORG>, <FIDEURAMDIRECT.IT>, <FIDEURAMDIRECT.COM>, <FIDEURAMIRELAND.COM>, <FIDEURAMLUXPRIVATE.LU>, <FINANCIEREFIDEURAM.COM>, <FIDEURAMUK.IT>, .COM, .UK, <FIDEURAMINTESASANPAOLOPRIVATEBANKING.COM> and .EU.

FACTUAL BACKGROUND

The Complainant is the 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 1 January 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 48,20 billion euro, and the undisputed leader in Italy, in all business areas (retail, corporate and wealth management). Thanks to a network of approximately 3,500 branches capillary and well distributed throughout the Country, with market shares of more than 16% in most Italian regions, the Group offers its services to approximately 13,6 million customers. Intesa Sanpaolo has a strong presence in Central-Eastern Europe with a network of approximately 950 branches and over 7,1 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.

Fideuram – Intesa Sanpaolo Private Banking (well known as "FIDEURAM") is the Intesa Sanpaolo Private Banking Division which serves the customer segment consisting of Private clients and High Net worth Individual with the offering of products and services tailored for this segment. More than 120,000 customers are served through 270 branches by more than 6,600 private bankers.

Only Intesa Sanpaolo, its parent company Fideuram – Intesa Sanpaolo Private Banking and the companies fully controlled by the last one are authorized to use the FIDEURAM trademarks.

The Respondent as a Registrant is known under its company name (Organisation) Sahari Muti Inc. and the name Sahad Mohammed Riviera, Spain.

The Respondent registered the disputed domain name <FLDEURAM.COM> on 27 July 2023.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Panel shall draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules because of the Respondent's failure to submit a response.

The Panel shall decide this administrative proceeding pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules on the basis of the Complainant's as true and undisputed allegations.

The Complainant seeks the transfer of the disputed domain name <FLDEURAM.COM> to its company Intesa Sanpaolo S.p.A.

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

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs the Panel to "decide a complaint on the basis of the statements and

documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (i) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

All the trademarks and the domain names consisting in the company names of the Intesa Sanpaolo parent companies are owned by the Complainant. The Complainant has established its rights in the trademarks which are distinctive and well-known international trademarks. The notoriety and the actually distinctive nature of the EU trademark "FIDEURAM" since 9 December 2015 and EU trademark "FIDEURAM & device" since 17 September 2015 is proven and confirmed by their widespread and longstanding use and reputation in the field of the Complainant's business in banking areas, as the Panel concludes.

A. THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

The disputed domain name is <FLDEURAM.COM>. The Panel finds that the disputed domain name <FLDEURAM.COM> represents a typosquatting version of the well-known trademark "FIDEURAM", with the mere substitution of the letter "I" with an "U" in the disputed domain name. The Panel considers that such disputed domain name being confusingly similar to the trademark of the Complainant is a clear example of 'typosquatting' when the domain name is a slight alphabetical variation from a famous trademark. Where the relevant trademark is recognizable in the disputed domain name, the addition of other generic words cannot prevent a finding of the Panel that the disputed domain name is confusingly similar to the disputed domain name.

The Panel therefore finds that 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).

B. THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Respondent as a Registrant and known under its company name (Organisation) Sahari Muti Inc. and the name Sahad Mohammed Riviera, Spain does neither correspond to the name of the Complainant nor the Respondent is commonly known as "FLDEURAM" or "FIDEURAM" or "FIDEURAM & device". The use of the trademarks "FIDEURAM" and "FIDEURAM & device" has to be authorized by the Complainant. The Respondent did not evidenced not alleged any such authorization or license accorded by the Complainant. The Panel does not find any fair or non-commercial uses of the disputed domain name by visiting the disputed domain name's home-page.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

C. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS USED IN BAD FAITH

For the first circumstance as to the registration of the disputed domain name in bad faith the Panel finds that the Complainant's trademark "FIDEURAM" is distinctive and well known all around the world. The fact that the Respondent has registered a disputed domain name that is confusingly similar to trademark "FIDEURAM" 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 even a basic Google search in respect of the wording "FIDEURAM" or "FLDEURAM", the same would have yielded obvious references to the Complainant. The evidence made by an extract of a Google search supports this conclusion of the Panel. Therefore, the disputed domain name would not have been registered if it were not for Complainant's trademark. This is a clear evidence of registration of the domain name in bad faith.

The Respondent does not use the disputed domain name for any bona fide offerings. The Panel finds evidenced the circumstances that indicate that the Respondent intentionally attempts to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site in accordance with para. 4(b)(iv) of the Policy.

The Panel finds from the screenshot submitted by the Complainant that the disputed domain name was connected to a website that, using the Complainant's trademark, promoted banking, trading and investment activities for which the protected trademarks of the Complainant were registered and required and used login information to access personal account. It is proven by the evidence that recently, the site linked to the disputed domain name <FLDEURAM.COM> was changed into a web page with no active contents. Despite the currently use of the domain and considering its previous redirection, the risk that Intesa Sanpaolo's customers will have been used again to be misled and in fraud by the disputed domain name of <FLDEURAM.COM> appears extremely high, as the Panel concludes.

In the Panel view 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. The Panel finds that passive holding of a disputed domain name in circumstances that the Complainant's marks are well-known and there is not proven by the Respondent their conceivable use the holding of the disputed domain name amounts to an infringement of the Complainant's trade mark rights in bad faith.

For the second circumstance as the use of the disputed domain name in bad faith the Panel underlines that it is objectively not possible to understand what kind of use the Respondent could make with a disputed domain name which is confusingly similar to the Complainant's trademarks and that results so similar to the Complainant's domain names currently used by the latter and its parent company "FIDEURAM" 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. The Panel finds that the Respondent registered the domain name because in all probability it knew of the Complainant and the type of services offered by the Complainant and tried to attract Internet users for commercial gain by "spoofing" and "phishing".

The practice of "phishing" consists of attracting the customers of a bank to a web page which imitates the real page of the bank, with a view to having customers disclose confidential information like a credit card or bank account number, for the purpose of unlawfully charging such bank accounts or withdrawing money out of them.

The Panel confirms the Complainant's view that the Respondent like the current owner registered the disputed domain name with the "phishing" purpose, in order to induce and divert the Complainant's legitimate customers to its website and steal their money. A fake website that is similar typically to a financial institution such as a bank or insurance company and that is used in order to collect the information about the customers' identity for the purpose of theft and other unfair activities, is a clear evidence of use of the disputed domain name in bad faith.

The Panel considers the Complainant's allegation for true that it happened that some clients of the Complainant have received e-mail messages asking, by the means of web pages which were very similar to the Complainant's ones, the sensitive data of the Complainant's clients, like user ID, password etc. Then, some of the Complainant's clients have been cheated of their savings. A phishing website is in the Panel's view the clearest evidence of registration and use of a domain name in bad faith.

The Panel notes that these are practices which have become a serious problem in the financial services industry worldwide. This is a clear indication both of bad faith registration and of use.

The Panel therefore finds that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of 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. **FLDEURAM.COM**: Transferred

PANELLISTS

Name	Vojtěch Trapl
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DATE OF PANEL DECISION 2023-08-25

Publish the Decision