



DECISION OF THE THIRD-PARTY DECIDER

Intesa Sanpaolo S.p.A. / Gilles Bargues

Case no. 444217 / fideuram.be

1. The Parties

A. Complainant:

Intesa Sanpaolo S.p.A.
Piazza San Carlo 156
10121 Turin
Italy

Represented by:

Mr Alessandro SCATTOLIN
Piazza Armando Diaz 7
20123 Milan
Italy

Hereinafter referred to as "the Complainant".

B. Domain Name Holder:

Gilles Bargues
Rue des Ecoles 3
31660 Buzet-sur-Tram
United States of America
(unrepresented)

Hereinafter referred to as "the Respondent".

The Complainant and the Respondent are collectively referred to as "the Parties".

2. Domain Name

Domain Name: <fideuram.be>
Registered on: 28 February 2024

Hereinafter referred to as "the Domain Name".





- 2.1 At the time of writing, the Domain Name does not resolve to an active website (for present purposes, “the Respondent’s website”).

3. Procedural history

- 3.1 On 4 July 2024, the Complainant filed a Complaint with CEPANI Secretariat (“the CEPANI”) under the CEPANI Rules for Domain Name Dispute Resolution (“the CEPANI Rules”) and the Dispute Resolution Policy of DNS Belgium, incorporated in its Terms and conditions for <.be> domain name registrations (“the DNS.be Policy”). The Complainant seeks the transfer of the Domain Name.
- 3.2 On 9 July 2024, CEPANI notified the Parties of the commencement of the proceedings and, pursuant to Article 6.1 of the CEPANI Rules, CEPANI invited the Respondent to submit a Response to the Complaint by 30 July 2024 (“the <.be> domain name dispute”).
- 3.3 The Respondent has failed to serve a Response within the deadline prescribed under Article 6.1 of the CEPANI Rules, or at all.
- 3.4 On 2 August 2024, CEPANI appointed the Third-Party Decider to settle the <.be> domain name dispute pursuant to Article 7.2 of the CEPANI Rules. The Third-Party Decider has submitted his declaration of independence, as required by CEPANI to ensure compliance with Article 8 of the CEPANI Rules. CEPANI transmitted the case file to the Third-Party Decider on the same date, in accordance with Article 10 of the CEPANI Rules.
- 3.5 On 2 August 2024, CEPANI informed the Parties and the Third-Party Decider that (i) the deliberations should be closed within 7 days (ie by 9 August 2024), pursuant to Article 13 of the CEPANI Rules; and (ii) in accordance with Article 16.2 of the CEPANI Rules, once the deliberations were concluded, the Third-Party Decider ought to forward his decision to CEPANI within 14 days (ie by 23 August 2024).
- 3.6 On 9 August 2024, in accordance with Article 13 of the CEPANI Rules, the deliberations came to a closing. The Parties have not sought permission to file additional submissions within the 7-day window or at all.
- 3.7 The Third-Party Decider considers the file to be sufficiently complete to proceed to a decision on the merits of the case, and that CEPANI has adhered to the CEPANI Rules in its role as administering authority of this <.be> domain name dispute.

4. Factual Background

A. Complainant’s Allegations

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4.1 The Complainant's statements of fact can be summarised as follows:

A.1 Background history

- 4.2 The Complainant is the leading Italian banking group and a major player in the European financial arena, whose company name resulted from the merger in 2007 between two Italian banking groups, namely, Banca Intesa S.p.A. and Sanpaolo IMI S.p.A., two of the top Italian banking groups. The Complainant presently offers its services to approximately 13.6 million customers worldwide, with an international network present in 25 countries, and a market capitalisation in excess of EUR 65.9 bn.
- 4.3 The Complainant's parent company Fideuram – Intesa Sanpaolo Private Banking is the Complainant's business segment that serves private clients and high net worth individuals, currently accounting for more than 120,000 customers.
- 4.4 In addition to the non-exhaustive list of trade marks mentioned in the below section A.2 and owned by the Complainant, the Complainant informs that it is also the owner of numerous domain names which bear the sign "fideuram", most notably <fideurambank.org>, which was registered in 2000.

A.2 Trade mark standing

- 4.5 For the purpose of this <.be> domain name dispute, the Complainant relies upon the following registered trade marks:
- EU trade mark registration no. 014404958, filed on 24 July 2015, for the word mark FIDEURAM, in classes 9, 16, 35, 36, 41, and 42 of the Nice Classification; and
 - EU trade mark registration no. 014003685, filed on 27 April 2015, for the figurative mark  in classes 9, 16, 35, 36, 41, and 42 of the Nice Classification.

Collectively or individually referred to as "the Complainant's trade mark"; "the Complainant's trade mark FIDEURAM"; or "the trade mark FIDEURAM".

B. Respondent's Allegations

- 4.6 The Respondent has failed to serve a Response in this <.be> domain name dispute. Hence, the Complainant's allegations are uncontested.

5. Contentions of the Parties

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A. Complainant's Submissions

5.1 The Complainant's submissions can be summarised as follows:

A.1 The Domain Name is identical to a trade mark in which the Complainant has rights

5.2 The Complainant submits that the Domain Name <fideuram.be> is evidently identical to the Complainant's trade mark FIDEURAM.

A.2 The Respondent has no rights or legitimate interests in respect of the Domain Name

5.3 The Complainant submits that the Respondent has no rights or legitimate interests in the Domain Name, and that any use of the trade mark FIDEURAM must be authorised by the Complainant. The Respondent is not authorised or licensed by the Complainant in any way, nor is the Respondent known by the Domain Name. Furthermore, the Respondent's use of the Domain Name is neither bona fide nor legitimate non-commercial or fair use.

A.3 The Respondent registered and is using the Domain Name in bad faith

Registration in Bad Faith

5.4 The Complainant submits that the trade mark FIDEURAM is distinctive and well-known worldwide. Therefore, it is reasonable to infer that the Respondent has registered the Domain Name with knowledge of the Complainant's trade mark. Moreover, the Complainant claims that there are circumstances indicating that the Respondent has registered the Domain Name primarily for the purpose of selling, renting or otherwise transferring the Domain Name registration to the Complainant or to a Complainant's competitor, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the Domain Name.

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Use in Bad Faith

- 5.5 The Complainant avers that the Domain Name is being held passively and that it has met the passive holding threshold test, particularly the criteria of notoriety of the Complainant's trade mark and the implausibility of any good faith use to which the Domain Name may be put (see eg *Telstra Corporation Limited v Nuclear Marshmallows*, WIPO Case No. D2000-0003; and the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, paragraph 3.2 ("the WIPO Jurisprudential Overview 3.0").
- 5.6 The Complainant further claims that the Domain Name is not used for any bona fide offerings and, conversely, it may be potentially linked with "phishing" financial information in an attempt to defraud the Complainant's customers.
- 5.7 In the alternative, the Complainant avers that the Respondent's aim with the registration of the Domain Name might be to resell it to the Complainant, which is evidence of registration and use of the Domain Name in bad faith (Article 10b (2) of the DNS.be Policy).
- 5.8 As to additional indicia giving rise to a presumption of bad faith, the Complainant advises that the Respondent has failed to respond to the Complainant's cease and desist letter.
- 5.9 The Complainant therefore concludes that the Respondent has registered and is using the Domain Name in bad faith.

B. Respondent's Submissions

- 5.10 The Respondent has failed to serve a Response in this <.be> domain name dispute. Hence, the Complainant's submissions are uncontested.

6. Discussion and findings

A. DNS.be Policy Threshold

- 6.1 Pursuant to Article 16.1 of the CEPANI Rules, the Third-Party Decider shall rule on domain name disputes with due regard for the Parties' views and in accordance with the DNS.be Policy, the registration agreement and the CEPANI Rules.
- 6.2 Article 10b (1) of the DNS.be Policy sets out the grounds which the Complainant must establish to succeed:
- i. the Respondent's Domain Name is identical or confusingly similar to a trade mark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and

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- ii. the Respondent has no rights or legitimate interests in the Domain Name; and
- iii. the Domain Name has been registered or is being used in bad faith.

6.3 It is incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under <.be> domain name disputes is the balance of probabilities and, on that basis, the Third-Party Decider will now proceed to determine each of the three DNS.be Policy grounds in turn.

B. Identity or Confusing Similarity

6.4 The Third-Party Decider is satisfied that the Complainant has Policy-relevant rights in the registered trade mark FIDEURAM since at least 2015.

6.5 The Third-Party Decider notes that the Complainant's trade mark FIDEURAM is wholly incorporated into the Domain Name <fideuram.be>. Top-Level Domains ("TLDs"), in this case the ccTLD <.be>, are typically immaterial to the test under this DNS.be Policy ground given that the TLD is part of the domain name's anatomy.

6.6 The Third-Party Decider therefore finds that the Complainant has met the requirement under Article 10b (1)(i) of the DNS.be Policy.

C. Rights or Legitimate Interests

6.7 The Third-Party Decider notes that the Respondent does not appear to carry out any activity for, or have any business or relationship of any nature with, the Complainant. There is no evidence of any contractual arrangement/endorsement/sponsorship otherwise between the Parties to that effect, nor has the Complainant otherwise authorised the Respondent to make any use of the Complainant's trade mark or to register the Domain Name on the Complainant's behalf. In addition, the record fails to demonstrate that the Respondent (as an individual, business, or other organisation) has been commonly known by the Domain Name.

6.8 Furthermore, there is no evidence establishing, before any notice of the present <.be> domain name dispute, the Respondent's use, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services.

6.9 In view of the above, the The Third-Party Decider finds that the Complainant has succeeded under Article 10b (1)(ii) of the DNS.be Policy.

D. Registration or Use in Bad Faith

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- 6.10 The Third-Party Decider notes a number of factors which point towards a finding of bad faith registration.
- 6.11 First, the Complainant's trade mark FIDEURAM predates the registration of the Domain Name by nearly a decade. Moreover, the Domain Name is composed solely of the trade mark FIDEURAM in its string. To the best of the Third-Party Decider's knowledge, the word "fideuram" has no known meaning in Italy, Belgium, or in the United States. Additionally, it appears that the Respondent has provided a non-existent postal address in the United States when registering the Domain Name. Hence, the Third-Party Decider has no hesitation in finding that the Respondent registered the Domain Name with knowledge of, and intention to target, the Complainant.
- 6.12 The Third-Party's decision on bad faith registration would be sufficient for the Complainant to prevail in this matter, the DNS.be Policy requiring a finding of registration or use in bad faith. Nonetheless, the Third-Party Decider takes the view that the case circumstances justify a ruling on the use of the Domain Name, and the Third-Party Decider shall proceed accordingly.
- 6.13 With respect to the use in bad faith, the Complainant submits that the Respondent may have engaged in the conduct set forth in Article 10b (2)(i) of the DNS.be Policy:

"circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs that the registrant can show are directly related to the acquisition of the domain name".






- 6.14 The Complainant has requested the Third-Party Decider to apply the passive holding test to the current case.
- 6.15 As mentioned above in “section 2. Domain Name”, the Domain Name does not currently resolve to an active website.
- 6.16 The Third-Party Decider has therefore consulted paragraph 3.1.1 (conduct set forth in Article 10b (2)(i) of the DNS.be Policy) and paragraph 3.3 (passive holding) of the WIPO Jurisprudential Overview 3.0 to form his view on the use of the Domain Name under this DNS.be Policy ground. In the Third-Party Decider’s assessment, the factors which attach weight to the Complainant’s case are as follows: (i) the Respondent’s likely knowledge of the Complainant’s rights; (ii) the Respondent’s failure to advance any evidence of good faith use in connection with the Domain Name; and (iii) in any event, the implausibility of any good faith use to which the Domain Name may be put, not least given the Complainant’s business area and the heightened risk – in and of itself – of fraudulent activity being undertaken by the Respondent whilst using a domain name bearing the Complainant’s sole trade mark in its string.
- 6.17 Accordingly, the Third-Party Decider finds that the Complainant has met the requirement under Article 10b (1)(iii) of the DNS.be Policy.

7. Decision

- 7.1 For the foregoing reasons, in accordance with Article 10(e) of the DNS.be Policy, the Third-Party Decider orders that the Domain Name <fideuram.be> be **transferred** to the Complainant.

London-UK, 22 August 2024

Signed by:

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Gustavo Moser
Third-Party Decider