

## **ADMINISTRATIVE PANEL DECISION**

**SAP SE v. Nibha Jha, Neha Dua, BIPRA MEDIA PVT.LTD.**  
**Case No. D2023-2783**

### **1. The Parties**

The Complainant is SAP SE, Germany, represented internally.

The Respondent is Nibha Jha and Neha Dua, BIPRA MEDIA PVT.LTD., India.

### **2. The Domain Names and Registrar**

The disputed domain names <saptraininginstitute.com> and <saptraininginstitutes.com> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 30, 2023. On June 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 14, 2023.

The Center verified that the Complaint together with amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 14, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on August 17, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant, SAP SE, founded in 1972, and headquartered in Walldorf, Germany, is a business software company that has grown from a small, five person endeavor, to a multinational enterprise with 105,132 employees worldwide (as of March 31, 2023), representing over 157 nationalities.

Currently, the Complainant is a market share leader in enterprise applications software, with more than 230 million cloud users, more than 100 solutions covering all business functions for its customers, out of which 80% are small and midsize companies. SAP customers generate 87% of total global commerce (USD 46 trillion); 99 of the 100 largest companies in the world being SAP customers.

In addition to innovating and providing enterprise software and software-related services, the Complainant is among the leaders in providing training services for its customer and partner community.

The Complainant owns worldwide trademark registrations for the mark SAP, alone and variations thereof, such as the following:

- the International trademark registration number 759060 for the word SAP, stylized and with device, registered on April 18, 2001, covering goods and services in Nice classes 9, 16, 41, 42; and

- the European Union trademark registration number 013107818 for the word SAP, filed on July 23, 2014, and registered on December 16, 2014, covering goods and services in Nice classes 9, 16, 35, 38, 41, and 42.

The Complainant's trademark SAP was ranked Number 20 among the world's brands, by the Interbrand's Best Global Brands of 2022.

The Complainant's homepage for training is located at "<https://training.sap.com>".

Genuine SAP software certification credentials are only available through the Complainant and its authorized training partners.

The disputed domain name <saptraininginstitute.com> was registered on April 20, 2017, and the disputed domain name <saptraininginstitutes.com> was registered on April 26, 2022.

At the time of filing the Complaint, both disputed domain names resolved to websites, presenting the Respondent as a SAP Certification Training Institute, and purporting to offer SAP training services in Noida, India.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its well-known trademark SAP; that the Respondent has no rights or legitimate interests in the disputed domain names; and that the Respondent registered and is using the disputed domain names in bad faith for websites providing training services and this use is clearly to take advantage of SAP brand reputation and to convey that the Respondent provides SAP authorized services.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### A. Preliminary Procedural Issue. Consolidation of Multiple Disputed Domain Names and Respondents

According to the provisions of paragraph 10(e) of the Rules, the Panel has the power to decide the consolidation of multiple domain names disputes. Further, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In the present case, there are two disputed domain names, two sets of registrant details, and one Registrar.

The present disputed domain names: (i) have the same IP address; (ii) list the same contact phone number and the same address in Noida, Delhi, on the corresponding websites; (iii) are both connected to webpages purporting to provide SAP training services; (iv) are both registered with the same Registrar; (v) were created in a similar manner, reproducing the Complainant's trademark SAP followed by additional very similar terms, one letter "s" differentiating them, "training institute", respectively "training institutes".

The Respondents had the opportunity to comment on the consolidation request made by the Complainant but they chose to remain silent.

For the above, the Panel finds that the disputed domain names are registered by the same person or are under common control, and would be equitable and procedurally efficient to decide the consolidation of multiple disputed domain names and Respondents in the present procedure. See also section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, hereinafter the Panel will refer to the singular "Respondent".

### B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, "training institute", respectively "training institutes", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a

finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **C. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Furthermore, the composition of the disputed domain names carry a high risk of implied affiliation. The disputed domain names resolve to websites impersonating the Complainant and/or its authorized training partners, purporting to provide SAP training services. Genuine SAP software certification credentials are only available through the Complainant and its authorized partners, whereas the Respondent is not one of such partners. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **D. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain names were registered in bad faith, with knowledge of the Complainant and its trademark particularly because the Complainant’s SAP trademark was registered starting 1983, and through extensive use and marketing, it has become well-known worldwide.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain names incorporate the Complainant's trademark with additional descriptive terms, closely related to the Complainant's business, and the websites operated under the disputed domain names display the Complainant's mark and falsely suggest to provide SAP training courses, whereas such courses are provided only by authorized partners of the Complainant, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain names who may be confused and believe that the websites are held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

According to the evidence provided in the Complaint and unrefuted by the Respondent, the disputed domain names were used to deceive the Internet users in relation to the services provided, namely SAP certification courses, which are services provided only by the Complainant and its authorized partners and the Respondent is not such a provider, thus impersonating/passing of the Complainant and its authorized network in an attempt to obtain illicit financial gain.

Based on the available record, the Panel finds the third element of the Policy has been established.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <saptraininginstitute.com> and <saptraininginstitutes.com> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: August 31, 2023