

## **ADMINISTRATIVE PANEL DECISION**

**SAP SE v. SAP Plus Plus LLC**  
**Case No. D2024-3209**

### **1. The Parties**

The Complainant is SAP SE, Germany, represented by K & G Law LLC, United States of America ("United States").

The Respondent is Mohamed Bilal, Egypt.

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

The disputed domain name <sapplusplus.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 5, 2024. On August 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 6, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 9, 2024, 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 August 12, 2024.

The Center verified that the Complaint together with the 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 August 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2024. The Response was filed with the Center on August 21, 2024. The Respondent confirmed on August 27, 2024, that its Response issued on August 21, 2024, with the annexures, was the complete response.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on August 29, 2024. 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.

On August 29, 2024, the Respondent issued a communication to the Panel consisting of a covering email, together with the Response and Annexes. The Panel having already received these items in the case file did not require to treat them as a supplemental filing.

#### 4. Factual Background

The Complainant is a European Company headquartered in Germany and listed in Frankfurt, Germany and New York, United States. It is a developer of business software with more than 437,000 customers in 190 countries, 269 million cloud users and 100 solutions covering business functions. The Complainant has 105,315 employees worldwide as of June 30, 2024, representing 159 nationalities. The Complainant's customers generate 87 per cent of total global commerce. 99 of the 100 largest companies in the world are customers of the Complainant. The Complainant has used and widely promoted the mark SAP for its business since 1983 and also asserts that the mark has acquired secondary meaning. Said mark was recently ranked at number 20 in Interbrand's Best Global Brands of 2023.

The Complainant owns a family of SAP registered trademarks with effect in various territories worldwide. The mark is used alone and in combination with devices. For example, the Complainant is the owner of International Registered Trademark Number 726890 for the word mark SAP, registered on November 15, 1999, in Classes 9, 16, 35, 41, and 42, and designated in respect of a variety of territories, including Egypt, where the Respondent is based. The Respondent also typically represents its SAP mark in an "anvil" shape. For example, the Complainant is the owner of International Registered Trademark Number 759060 for the following device mark:



Said mark was registered on April 18, 2001, in Classes 9, 16, 41, and 42, and designated in respect of a variety of territories, including Egypt.

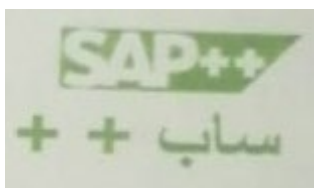
The Complainant asserts that said mark is famous. In 1995, the Complainant registered the domain name <sap.com> to support its business and has operated a website at this domain name supporting the mission of its business since then.

The Respondent is an individual based in Egypt. The Respondent also lists itself as "Director at SAP++" in correspondence and states that the legal trade name of its limited liability company is "SAP Plus Plus". According to the extract from the relevant commercial register produced by the Respondent, SAP Plus Plus LLC (ساب بلس بلس) is a limited liability company registered in Egypt under registration number 27630 on December 27, 2022.

The disputed domain name was registered on December 26, 2022. It is used for a website entitled "SAP++ Software Solutions | Business Applications and Technology — Get software and technology solutions from SAP [...]". Said website offers "Professional Software Solutions [...] to help you create a remarkable SAP ERP System". Said website features the following logo:



The Respondent applied to the Egyptian Trademark Office on February 7, 2023, to register the following trademark:



The Complainant states that its attorneys have been informed that said application has been refused, and that the reasons for refusal were not indicated.

On March 5, 2023, the Respondent applied to the Complainant to join the Complainant's partnership program. On March 7, 2023, said application was rejected by the Complainant on the basis that the Respondent's company name and logo were infringing the Complainant's trademarks. There followed some attempts by the Complainant to encourage the Respondent to comply with the application requirements of its said program, and ultimately on April 4, 2023, the matter was referred by the Complainant to its branding team. On April 12, 2023, the Complainant's Senior Trademark Advisor wrote to the Respondent indicating that the Complainant could not allow the Respondent's use of a company name or domain name with the word "sap" in it.

On August 21, 2023, the Complainant's intellectual property agents wrote a cease and desist notice to the Respondent in English and Arabic in which said agents outlined the similarity between the Respondent's trade name, applied trademark, the disputed domain name, and the Complainant's intellectual property. In said communication, the said agents sought an amicable settlement, failing which the Respondent was notified that the Complainant would take action to protect its trademark rights.

## **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 name.

Notably, the Complainant contends that the disputed domain name fully incorporates the Complainant's well-known trade name and trademark SAP, establishing that it is confusingly similar thereto. The Complainant adds that the addition of the term "plus" does not provide a sufficient differentiation, noting that the distinctive SAP component of the Complainant's mark is the opening element of the disputed domain name.

The Complainant submits that the Respondent has no trademark rights or any other legitimate interests in the SAP mark, has not been authorized or licensed by the Complainant to use said mark, is not a reseller of the Complainant's products, and is not an authorized partner or consultant of the Complainant. The Complainant contends that, given the Complainant's extraordinary renown, it is reasonable to conclude from the Respondent's website content that it is seeking to capitalize on the Complainant's brand by using the disputed domain name to drive traffic to said website, such usage not being legitimate. The Complainant notes that the Respondent's landing page displays a variation and derivation of the Complainant's corporate logo featuring the same "anvil" shape, adding that the Respondent was put on notice that its company name, domain name, and logo infringed the Complainant's rights at the latest on April 9, 2023. The Complainant states that it is undisputed that the Respondent has not been authorized to use the Complainant's trademark and asserts that the Respondent cannot establish any rights or legitimate interests under the Policy.

The Complainant contends that the disputed domain name was registered and is being used in bad faith, adding that registration of a domain name that is confusingly similar to a famous trademark by an entity with

no relationship to that mark is sufficient evidence of such bad faith. The Complainant adds that the disputed domain name was registered to trade on the Complainant's goodwill and to attract users to the Respondent's site, adding that this is sufficient to establish bad faith, especially where the Respondent was aware of the Complainant's prior rights. The Complainant concludes that the Respondent acted knowingly in disregard of third party trademark rights, supporting a finding of bad faith.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. The Respondent asserts that its trade name is protected according to Article 8 of the Paris Convention for the Protection of Industrial Property. With regard to said trade name, the Respondent notes that "sap" is a generic word relating to the transport of nutrients in plants. With regard to the Respondent's trademark application, the Respondent notes that it is awaiting the outcome of an appeal. The Respondent asserts that its trademark application is protected from the date of submission of the application. The Respondent notes that it has updated its website content to refer to ERP systems in general, although it is "SAP certified" with nine "SAP Digital Badges".

## **6. Discussion and Findings**

### **A. 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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "plusplus" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### **B. 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The essence of the Respondent's rebuttal case is that (1) the disputed domain name corresponds to its trade name, which it considers is protected by Article 8 of the Paris Convention for the Protection of Industrial Property; (2) the Respondent is entitled to use the disputed domain name because it contains the dictionary word "sap"; and (3) the Respondent has applied for a trademark in the term "SAP ++" and Arabic equivalent, and is awaiting the outcome of an appeal against refusal by the Egyptian Trademark Office.

Dealing with these matters in turn, the Panel notes that the Respondent's company name matches the disputed domain name. Nevertheless, as has frequently been observed in cases under the Policy, the mere incorporation of a company with a name corresponding to a domain name does not typically, on its own, lead to a finding of rights and legitimate interests under the Policy (See *Royal Bank of Canada v. RBC Bank*, WIPO Case No. [D2002-0672](#)).

The Respondent therefore requires to show something going beyond the mere registration of a corresponding company name in order to demonstrate rights and legitimate interests under the Policy. However, the facts and circumstances here suggest that the Respondent named its company precisely because it was aware of the Complainant's longstanding and well-known trademark, and sought to benefit from the associated goodwill. The Respondent named its company in 2022 by which date the Complainant's mark had been in existence for decades, including in the Respondent's jurisdiction, and furthermore was well-known in the software industry, being the Respondent's line of business. The Respondent also sought to deploy a variant of the Complainant's device mark using the characteristic "anvil" shape, and notes that it is "SAP certified", i.e., that it has received a certification corresponding to the Complainant's software. Having named its company after the Complainant's name and mark, and having adopted a very similar logo, the Respondent then proceeded to seek a formal partnership with the Complainant.

The Respondent's actions appear to be entirely focused on obtaining an unfair advantage based upon emulating the Complainant's trademark and trade dress, and/or obtaining some form of leverage in connection with its application for a commercial partnership with the Complainant. This cannot confer rights and legitimate interests upon the Respondent within the meaning of the Policy. The Respondent prays in aid the terms of Article 8 of the Paris Convention for the Protection of Industrial Property. The Panel notes that the effect of this provision is to oblige signatories of the Convention to protect trade names without the need for the filing or registration of the same. However, it does not have the effect for which the Respondent contends, i.e., it does not serve to prefer trade names such as that of the Respondent (whether registered or unregistered) over long-established prior trademark rights such as those of the Complainant. Consequently it does not entitle the Respondent to claim rights or legitimate interests within the meaning of the Policy.

With regard to the fact that the disputed domain name contains the dictionary word "sap", the Panel is of the opinion that the evidence demonstrates that the Respondent did not register the disputed domain name in accordance with such dictionary meaning but rather in reference to the Complainant's software and SAP trademark. The Respondent's logo, being clearly based upon the Complainant's device mark, places this beyond doubt, as does the Respondent's claim to specialize in the Complainant's ERP software, and its seeking of a commercial partnership with the Complainant. The Panel considers that to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should have been registered due to its dictionary meaning and not to trade off third-party trademark rights. Where the Panel has found that the Respondent registered the disputed domain name in order to trade off the Complainant's trademark rights, the Respondent cannot rely upon such dictionary meaning in the context of rights and legitimate interests under the Policy.

With regard to the Respondent's application for a trademark, the Panel notes that said mark has been refused, albeit allegedly subject to an appeal, although the reason for refusal is unknown. In any event, the Complainant possesses senior trademark rights (by almost a quarter-century) in the jurisdiction concerned, and even if the Respondent's mark had proceeded to grant, the existence of such mark would not automatically confer rights and legitimate interests upon it in the meaning of the Policy. Panels have generally declined to find respondent rights or legitimate interests in a domain name on the basis of a

corresponding trademark registration where, as here, the overall circumstances demonstrate that such trademark was obtained primarily to prevent the complainant's exercise of its rights (even if only in a particular jurisdiction) or, in the Panel's opinion, to otherwise create an impression of legitimacy over the Respondent's business as related to the use of the disputed domain name. [WIPO Overview 3.0](#), section 2.12.2.

In all of these circumstances, the Panel finds that the Respondent has failed to rebut the Complainant's prima facie case that it has no rights and legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

### **C. 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.

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.

In the present case, the Panel notes that the Respondent is in the software development business and was evidently aware of the Complainant's well-known SAP mark prior to the registration of the disputed domain name. It is clear to the Panel that the Respondent registered the disputed domain name with intent to target the Complainant's rights by cloaking the Respondent's company and corporate website in the Complainant's identity for its own commercial benefit. The Respondent claims experience and certifications in the Complainant's software, and furthermore sought a partnership with the Complainant shortly after it had registered the disputed domain name. The Respondent cannot credibly deny prior knowledge of the Complainant or its rights (nor does it attempt to do so), and its argument that the disputed domain name was registered in connection with the dictionary meaning of the word "sap" is pretextual. Consequently, the Panel finds that the disputed domain name was registered in bad faith.

In terms of the use of the disputed domain name, the Respondent has chosen a logo for itself that is based upon the Complainant's "anvil" logo and which features the Complainant's SAP mark on a differently colored background with the addition of the word "plus" (or symbol "+") repeated twice. The typeface in said logo is identical to that used in the Complainant's logo and device mark. The Respondent's logo is displayed on the website associated with the disputed domain name, in which the Respondent claims experience of the Complainant's software. The Panel notes in passing that the fact that the Respondent may have now removed those claims or replaced them with more generic references to ERP software is irrelevant. The Complainant is a well-known provider of ERP software under the SAP mark, and the latter is still contained in the disputed domain name, features on the Respondent's logo, and is reproduced in the Respondent's company name. The potential for confusion arising from the use of the disputed domain name is considerable, and the Respondent seeks to benefit commercially from such confusion. This cannot be regarded as a good faith use. The Panel finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website in terms of paragraph 4(b)(iv) of the Policy. Consequently, the Panel finds that the disputed domain name is also being used in bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

## **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 name <sapplusplus.com> be transferred to the Complainant.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Sole Panelist

Date: September 10, 2024