

ADMINISTRATIVE PANEL DECISION

**GOPA Gesellschaft für Organisation, Planung und Ausbildung mbH v. Tony
Peppler, StartupCapital.com
Case No. D2024-5008**

1. The Parties

The Complainant is GOPA Gesellschaft für Organisation, Planung und Ausbildung mbH, Germany, represented by lexTM Rechtsanwälte, Germany.

The Respondent is Tony Peppler, StartupCapital.com, United States of America (“United States”), represented by John Berryhill, Ph.d., Esq., United States.

2. The Domain Name and Registrar

The disputed domain name <gopa.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 December 4, 2024 and included two domain names: <gopa.com> (hereinafter, the “disputed domain name”); and <gopagroup.com>. On December 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with these two domain names. On December 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the two domain names 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 December 6, 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 December 10, 2024, and withdrew the domain name <gopagroup.com> from the proceeding, which continued only in respect of the disputed domain name.

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 December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. On January 7, 2025, the Respondent requested a four-day extension for the Response. On the same day, the Center granted the automatic four calendar day extension to the Respondent, and fixed the due date for Response at January 12, 2025. The Response was filed with the Center on January 13, 2025 (January 12, 2025 in the time zone of the Respondent).

The Center appointed Assen Alexiev, Jeremy Speres, and The Hon Neil Brown KC as panelists in this matter on February 10, 2025. The Panel finds that it was properly constituted. Each member of 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 was established in 1965. It is the parent company of the GOPA Consulting Group, a multi-disciplinary group of consulting and engineering companies, involved in projects in the areas of health, education and employment, agriculture, food and natural resources, infrastructure, energy, good governance and human rights, economic growth, and communication.

The Complainant is the owner of a number of trademark registrations for “GOPA” (the “GOPA trademark”), including the following registrations:

- the European Union trademark GOPA with registration No. 007444541, applied for on December 5, 2008 and registered on July 28, 2009 for services in International Classes 35, 42, and 45;
- the European Union trademark GOPA with registration No. 007448947, applied for on December 8, 2008 and registered on July 21, 2009 for services in International Classes 35, 42, and 45; and
- the International trademark GOPA with registration No. 1591815, registered on February 4, 2021 for services in International Class 42.

The two European Union trademark registrations listed above are the earliest registrations of the GOPA trademark by the Complainant.

The Complainant is also the owner of a number of domain names, the earliest of which are <gopa.de>, registered on January 1, 2000, <gopa.eu>, registered on April 30, 2006, <gopa-group.eu>, registered on April 30, 2006, and <gopa-group.com>, registered on July 26, 2006. These domain names resolve to the Complainant’s official website.

The disputed domain name was registered on April 15, 2007. It is currently inactive and the website of the Registrar invites purchase bids for it with a minimum price of USD 25,000.

5. Parties’ Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its GOPA trademark.

The Complainant submits that it registered its domain name <gopa.de> on January 1, 2000, and in 2001 it started offering its services under the service mark GOPA. The Complainant adds that this service mark had already been in use in more than 60 countries worldwide for seven years when the disputed domain name

was registered in 2007. The Complainant further states that by 2004 it had already achieved a turnover of EUR 35.7 million under this service mark, and that in December 2004, it employed 175 professionals and 135 consultants worldwide and had contract orders totaling EUR 59.3 million and incoming orders of EUR 36.1 million. On this basis, the Complainant maintains that it is internationally known under the brand GOPA.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not using it in connection with a bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name, and because it has no relevant trademark rights and is not commonly known by the disputed domain name. The Complainant points out that the Respondent is offering the disputed domain name in an auction with a minimum bid of USD 25,000.

The Complainant submits that the Respondent's registration of the disputed domain name in 2007, shortly after the Complainant began registering and using domain names containing "GOPA" in 2006, prima facie establishes that the Respondent has no right or legitimate interest in the disputed domain name. According to the Complainant, its registration was made with the intention of selling the disputed domain name to the Complainant, who was actively expanding its domain name portfolio at the time.

The Complainant contends that the disputed domain name was registered and is being used in bad faith, and points out that the Respondent is offering it for sale. The Complainant adds that it has never authorized the Respondent to register or use the disputed domain name, and the Respondent did not inform the Complainant prior to its registration and never asked for permission to use it.

B. Respondent

The Respondent submits that "Gopa" is a popular first name and surname, particularly in the Indian culture, where it is derived from the original Sanskrit word for "cowherd" and became a nickname for Buddha's wife Yasodhara. It notes that "Gopa" is part of the name of a historical Indian martyr and of a highly-regarded Indian author, and is a word and name of significance in Buddhism, Hinduism, and Jainism, as well as a term used in Ayurvedic medicine and yoga. The Respondent further points out that "GOPA" is used as an acronym for many diverse organizations such as the Gallery of Progressive Arts, the Global Observatory for Physical Activity, the Grumman Owners and Pilots Association, the Gloucestershire Older Persons Association, etc. The Respondent adds that third parties hold trademark registrations of GOPA in Romania, Mexico, India, Chile, and Japan, and domain names such as <gopa.org>, <gopa.be>, <gopa.fi>, <gopa.org.uk>, <gopa.se>, and others.

The Respondent notes that the disputed domain name had been previously registered and used by other entities named "Gopa", including a government and corporate purchase quote consolidator and the company Gopa Communications Inc., and explains that after it was abandoned by its prior registrant, the disputed domain name was acquired in 2007 by the Respondent at a public auction of expired and abandoned domain names for USD 6,200. The Respondent adds that the disputed domain name is similar to many other short, acronymic, or name and surname domain names that it has acquired.

The Respondent submits that it did not know of the Complainant in 2007, when it acquired the disputed domain name, and notes that the Complainant's first trademark application in the United States was filed only in 2021. The Respondent maintains that in the 17 years after the registration of the disputed domain name, it has never used it to compete with the Complainant, to pass itself off as the Complainant, or to otherwise infringe on the Complainant's trademark.

According to the Respondent, the offering for sale of a four-letter, non-distinctive, and pronounceable domain name that corresponds to a common name and surname is not illegitimate, and the trade in domain names does not demonstrate a lack of legitimate rights if the domain name registrant has not targeted the trademark owner. The Respondent asserts that the Complainant has no monopoly on this widely used name, surname, acronym, and mark, and its rights do not preclude the general marketing of the disputed domain name to any of the various uses to which it may be put, for which it has a legitimate commercial value independent of the Complainant's trademark. According to the Respondent, general-purpose names such as the disputed

domain name are highly valued in the secondary domain name market, and they regularly appear among the top sales figures, by reference to which the price of USD 25,000 is a bargain.

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 the GOPA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the GOPA trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the GOPA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

The Panel will also discuss here the issue of whether the Complainant has established that it has unregistered trademark rights in the mark GOPA. While not relevant to the finding above on the first element – given the registered trademark – this particular finding as to claimed unregistered rights is nonetheless included insofar as it relates to the second and third elements.

The Complainant does not explicitly claim that it has unregistered trademark rights in the brand GOPA, but submits that it started offering its services under this brand in 2001, and that by 2007 it had put the brand to global use in more than 60 countries. In support of this claim, the Complainant refers to the historical content of its website at "www.gopa.de" and indicates turnover and project value figures of tens of millions in EUR by 2004.

As discussed in section 1.3 of the [WIPO Overview 3.0](#), to establish unregistered trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with its goods or services. Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys. Specific evidence supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning. In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning.

As pointed out by the Respondent, "Gopa" is an Indian name, an acronym used by many diverse entities, and has been registered as a trademark by third parties in a number of countries. It therefore cannot be regarded as inherently distinctive, and there is a greater onus on the Complainant to present evidence that it has acquired a secondary meaning.

The only supporting evidence provided by the Complainant however consists of Wayback Machine archived copies of its own website, and there is no information from independent sources to confirm its allegations. The Complainant has not provided any evidence as to the amount of sales under the service mark GOPA and the nature and extent of advertising using it; there is no evidence as to the degree of actual recognition

of the trademark by the public and no consumer surveys. Taken together, the evidence submitted by the Complainant is insufficient to establish unregistered trademark rights in this mark, as it does not show that the same has acquired a secondary meaning for consumers.

On this basis, the Panel finds that the Complainant has failed to establish that it has unregistered trademark rights in the service mark GOPA.

B. Rights or Legitimate Interests

As discussed in section 2.1 of the [WIPO Overview 3.0](#), panels have accepted that aggregating and holding domain names (usually for resale) consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the UDRP.

The disputed domain name reflects an Indian personal name, an acronym signifying many diverse entities, and a trademark that has been registered by third parties in a number of countries. It can therefore be accepted that the disputed domain name may be legitimately used for different purposes unrelated to the Complainant as long as there is no targeting of the same.

The Respondent submits that its business includes the acquisition and resale of short, acronymic, or name and surname domain names. It has demonstrated that it acquired the disputed domain name in 2007 after the expiry of a previous registration. There is no evidence that the Respondent knew of the Complainant when it acquired the disputed domain name in 2007 and, in any event, the Complainant did not apply for its trademark until December 2008 and did not obtain its registration until July 2009. The disputed domain name is currently offered for sale to the general public and the Respondent has never contacted the Complainant or placed any content relating to the Complainant on the disputed domain name.

All of these circumstances support a finding that the Respondent registered the disputed domain name and advertised it without targeting the Complainant.

The Panel therefore finds that the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's GOPA trademark.

The Panel finds that the Respondent did not register the disputed domain name in bad faith targeting of the Complainant or its trademark rights because the Complainant had no trademark rights at the time that the Respondent registered the disputed domain name. [WIPO Overview 3.0](#), section 3.8.1.

As discussed in the previous section, the Respondent acquired the disputed domain name in 2007, while the Complainant filed its first trademark application for GOPA only in December 2008, and there is no evidence in the case file suggesting that the Respondent knew of the Complainant in 2007 and targeted it with the acquisition of the disputed domain name and its subsequent offering for sale. This precludes a finding of bad faith on the part of the Respondent.

The Panel therefore finds the third element of the Policy has not been established.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

The Respondent has not asked for a finding of Reverse Domain Name Hijacking, but the wording of Paragraph 15(e) of the Rules is such that there is an obligation on the Panel to consider the issue, at least in the case of a defended proceeding which this is.

Applying the terms of the Rule suggests that it is a borderline case as to whether the Complainant can be said to have brought the proceeding in bad faith or to harass the Respondent.

On the one hand, it chose as its name and trademark and as its several domain names a word that is an acronym and/or a word with some historical and religious meaning, which the Complainant probably knew or could have ascertained before it instituted the proceeding. Indeed, the Complainant itself uses the word as an acronym, as the letters making up the word GOPA are simply the first letters of the words that make up its corporate name. It might therefore be said that the Complainant knew or could have reasonably concluded that its chances of success were somewhat doubtful.

Moreover, the Complainant also knew that it had no trademark rights at the time the Respondent registered the disputed domain name in 2007 and that its chances of proving registration of the domain name in bad faith were therefore slim. Another indication of the Complainant's state of mind when it instituted the proceeding is that it alleged that the Respondent had "copied the Complainant's existing domains (e.g., .de / .eu) and registered them as .com domains (sic)", when there was no evidence that the Respondent had done so and no evidence from which such an inference could be drawn.

On the other hand, although the GOPA trademarks were not registered until 2009, the Complainant had registered its German domain name <gopa.de>, including its trademark, in 2000, it had been in business under the name GOPA since 2001, and it had used the GOPA brand which it regarded as a service mark in its business and internationally for all of the seven years prior to the registration of the disputed domain name. When it discovered that the disputed domain name had been registered, that it included the GOPA trademark, and that it was listed for sale, the probability is that its state of mind was that it wanted to defend and protect its trademark which by then had become registered. In the circumstances, it was not wholly unreasonable of the Complainant to consider that the disputed domain name could have been registered with a view to selling it to the Complainant, although this is not borne out on balance of probabilities.

Putting all of these considerations together, the probability is that it may have simply been over-optimistic that it could bring its claim within the confines of the UDRP, given the obstacles to success mentioned above. That does not mean, however, that it was acting in bad faith when it instituted the proceeding. Nor does it mean that it was harassing the Respondent or intending to do so. It is at least possible that it wanted to exercise a good faith intention of taking steps to protect its trademark and that it was taking steps to bring that objective about, which is legitimate, rather than that it was "primarily" harassing the Respondent.

On balance, therefore, the Panel is of the view that this is not a case that comes within the ambit of Paragraph 15(e) of the Rules. In more general terms, and taking everything into account, the Panel is not persuaded that this is a case for finding that the Complainant has engaged in Reverse Domain Name Hijacking.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Assen Alexiev/
Assen Alexiev
Presiding Panelist

/Jeremy Speres/
Jeremy Speres
Panelist

/The Hon Neil Brown KC/
The Hon Neil Brown KC
Panelist
Date: February 19, 2025