

ADMINISTRATIVE PANEL DECISION

**SAP SE v. Ashok Kumar Reddy S, SURAPU TECHNOLOGY SERVICES
PVT LTD**

Case No. D2022-0572

1. The Parties

The Complainant is SAP SE, Germany, represented by RNA, Technology and IP Attorneys, India.

The Respondent is Ashok Kumar Reddy S, SURAPU TECHNOLOGY SERVICES PVT LTD, India.

2. The Domain Name and Registrar

The disputed domain name <sapnuts.com> (the “Domain Name”) 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 February 18, 2022. On February 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 22, 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 February 25, 2022.

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 February 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2022.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on March 30, 2022. 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 is a *societas Europaea* organized under European and German corporate law and headquartered in Walldorf, Germany. Founded in 1972, it is a global leader in providing enterprise application software, business analytics, and mobile solutions, with more than 107,000 employees and 437,000 customers in some 190 countries, including about 10,000 customers in India. According to the Complaint, 99 of the 100 largest companies in the world use the Complainant's products such as the SAP Business Suite. The Complainant is listed on the Frankfurt and New York stock exchanges with the ticker symbol "SAP". The Complainant's fiscal year 2020 revenues were reported as EUR 27.34 billion.

The Complainant's customers require end user license agreements ("EULAs") and assistance from trained professionals to install and use SAP products. The Complainant operates licensing and education programs for customers and partners, with a trademark licensing program to protect the SAP word mark and logo (the letters "SAP" in a geometric figure), which are registered in more than 75 countries. Relevant trademark registrations include the following:

MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE
SAP (word)	India	578462	August 4, 1992
SAP (word)	India	890059	December 6, 1999
SAP (figurative)	European Union	002081966	February 15, 2002
SAP (word)	United States of America	2538716	February 19, 2002
SAP (figurative)	United States of America	2688100	February 18, 2003
SAP (word)	European Union	001270693	July 9, 2002

The record shows that the SAP marks are heavily advertised and widely recognized in industry and media worldwide. SAP ranks 20th in the 2021 list of Best Global brands. Interbrand has continuously ranked SAP as one of the top 50 most valued brands since 2001.

The Complainant operates several websites using domain names incorporating the SAP word mark, including "www.sap.com" (since 1995) and "www.sap.in" (since 2005), as well as linked social media sites. The Complainant's sites lead results to queries for "sap" in popular search engines.

The Registrar reports that the Domain Name was created on September 26, 2013, and is registered to the Respondent Ashok Kumar Reddy S, listing the organization as Surapu Technology Services Pvt Ltd of Anantapur, Andhra Pradesh, India.

The Complaint attaches screenshots showing that in February 2022 the Domain Name resolved to a website offering online SAP courses, tutorials, and certifications examinations, some of them labelled "free", with links to Facebook, Twitter, and Google+ social media sites with similar content and links to third-party advertising for unrelated services such as apartment searches in India. At the time of this Decision, the Domain Name redirects to a website at "www.zapnuts.com" with similar content and additional third-party advertising links. The Complainant's registered word and figurative marks are displayed on both websites.

The Complainant sent a cease and desist letter by email to the Respondent in August 2020 and demanded transfer of the Domain Name. The Respondent asked for payment of USD 20,000, stating that about 3,000 people visit the associated website daily seeking information about the Complainant's products. The parties did not reach an agreement concerning transfer of the Domain Name, and this proceeding followed.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the Domain Name is confusingly similar to its SAP mark and that the Respondent lacks permission or other evident rights or legitimate interests to incorporate that mark in its entirety in the Domain Name. The Complainant urges the Panel to find bad faith due to the Respondent's clear awareness of the SAP mark and its efforts to exploit the mark by offering unauthorized SAP training courses and material.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following:

(i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the 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.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

The first element of a UDRP complaint "functions primarily as a standing requirement" and entails "a straightforward comparison between the complainant's trademark and the domain name". See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. The Domain Name incorporates in its entirety the Complainant's registered SAP word mark, which is also the predominant element of its logos that are registered as figurative marks. As usual, the Top-Level Domain ".com" is disregarded as a standard registration requirement. See *id.* section 1.11.

The Panel finds, therefore, that the Domain Name is confusingly similar to the Complainant's registered marks for purposes of the Policy, paragraph 4(a)(i) and concludes that the Complainant has established the first element of the Complaint.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

(i) before any notice to it of the dispute, the respondent's use of, 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; or

(ii) that the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has established trademark rights, a lack of permissive use, and the Respondent's use of the Domain Name for a website offering unauthorized SAP training and third-party advertising. Thus, the Complainant has made a *prima facie* case, and the burden of production shifts to the Respondent. The Respondent has not come forward with evidence of rights or legitimate interests, and none are apparent on this record.¹ The Panel finds that the Respondent has not met the burden of production and concludes that the Complainant prevails on the second element of the Complaint.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(b), furnishes a non-exhaustive list of circumstances that "shall be evidence of the registration and use of a domain name in bad faith", including the following (in which "you" refers to the registrant of the domain name):

"(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location."

This example is apposite in the circumstances of this proceeding. Some of the Respondent's offerings may indeed be "free", but they are not all advertised as such, and the websites associated with the Domain Name also display commercial third-party advertising. Moreover, the Respondent offered to sell the Domain Name to the Complainant for USD 20,000 precisely because it purportedly attracts a large number of daily visitors interested in the Complainant's commercial products. The Respondent's conduct in displaying the Complainant's word and figurative marks on the Respondent's website without identifying the website operator or its relationship with the Complainant must also be taken as further evidence of an intent to exploit the Complainant's mark and take advantage of confusion as to source and affiliation. This also reflects bad faith within the meaning of the Policy.

The Panel concludes that the Complainant has established the third element of the Complaint.

¹ The Panel notes that even if the Respondent had asserted a legitimate interest in making referential or "nominative" fair use of the Complainant's mark for a website devoted to relevant educational services, that argument would likely have failed because of the Respondent's inclusion of unrelated third-party advertising and its failure to identify itself and its relationship with the Complainant. See [WIPO Overview 3.0](#), section 2.8.1.

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 Domain Name, <sapnuts.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: April 17, 2022