

## **ADMINISTRATIVE PANEL DECISION**

SAP SE v. Ramesh D, Keerthi D, Keerthi Lovez, Keerthi Reddy, Keerthi Reddy, Keerthi Reddy and Akshay Krishna  
Case No. D2023-0724

### **1. The Parties**

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

The Respondents are Ramesh D, India, Keerthi D, India, Keerthi Lovez, India, Keerthi Reddy, India, Keerthi Reddy, India, Keerthi Reddy, Australia and Akshay Krishna, India.

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

The disputed domain names <sapbrimonlinetraining.org>, <sapbrimtraining.com>, <sapewmtraining.com>, <sapfioronlinetraining.com>, <saphybrisbillingtraining.com>, <sapmiionlinetraining.com>, <sapraronlinetraining.com>, <saps4hanabrimtraining.com>, <saps4hanafinanceonlinetraining.com>, and <sapvistexonlinetraining.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 February 17, 2023. On February 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 20, 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 Respondents (Registration Private, Domains By Proxy, LLC and REDACTED FOR PRIVACY, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 22, 2023, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrar, and inviting the Complainant to either amend the Complaint adding the Registrar-disclosed registrants as formal Respondents and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all of the disputed domain names are under common control; and/or, to file a separate complaint for any disputed domain name for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that all of the disputed domain names are under common control. The Complainant filed an amended Complaint on March 1, 2023, including arguments for consolidation.

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 March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondents’ default on April 4, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 13, 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 is a German corporation founded in 1972, having become a leader in the software, business analytics and mobile solutions sectors. Its SAP ERP (“Enterprise Resource Planning”) software has become a market-leader solution, counting the Complainant with customers in more than 180 countries worldwide.

The Complainant’s official website is available at <sap.com> and it is the owner, amongst others, of the following trademark registrations (Annex 18 to the Complaint):

- India trademark registration No. 265,558 for the word mark SAP, filed under No. 578,462, on August 4, 1992, registered on June 30, 2003, successively renewed, in class 16;
- India trademark registration No. 586,337 for the word mark SAP, filed under No. 890,059, on December 6, 1999, registered on January 5, 2007, successively renewed, in class 16; and
- India trademark registration No. 673,889 for the word mark SAP, filed under No. 1,238,969, on September 22, 2003, registered on January 29, 2008, successively renewed, in classes 41 and 42.

The disputed domain names are the following:

Disputed Domain Name	Registration Date	Present use (when drafting Decision)
<sapbrimonlinetraining.org>	January 11, 2021	No active website.
<sapbrimtraining.com>	October 9, 2020	Webpage offering training courses on SAP Billing and Revenue Innovation Management (BRIM)
<sapewmtraining.com>	February 7, 2022	Parked webpage displaying pay-per-click (“PPC”) links.
<sapfiorionlinetraining.com>	February 17, 2015	Parked webpage displaying PPC links.
<saphybrisbillingtraining.com>	October 18, 2020	No active website.
<sapmiionlinetraining.com>	April 22, 2021	Parked webpage displaying PPC links.
<sapraronlinelearning.com>	March 3, 2017	Parked webpage displaying PPC links.
<saps4hanabrimtraining.com>	August 16, 2022	Parked webpage displaying PPC links.
<saps4hanafinanceonlinelearning.com>	January 19, 2021	No active website.
<sapvistexonlinelearning.com>	February 17, 2015	No active website.

All of the disputed domain names have been used in the past in connection with the offer of online courses on the Complainant’s computer programs (Annexes 22 to 31 to the Amended Complaint).

## 5. Parties' Contentions

### A. Complainant

The Complainant asserts to be the global market leader in providing collaborative, inter-enterprise business solutions for all types of industries and for every major market, serving more than 440,000 customers in more than 180 countries around the world. The Complainant further claims that its customers include 92% of the Forbes Global 2000 companies, having the SAP name and trademark become well-known internationally. In India, where the Respondents are located, the Complainant claims to have over 3,000 customers.

The Complainant also states that many of the software it provides, require trained professionals to load, execute, access, employ, utilize, store and display integrated end-to-end solutions derived from such software applications, having the Complainant created education and training programs for meeting these needs, thus having entered into contractual arrangements with third party software specialists (known as 'Education Partners') to provide education and training for provision and execution of the required functions. In India, for the purposes of providing education training services upon its software products, the Complainant has partnerships with specific entities to provide such training (Annex 15 to the Complaint).

The Complainant further contends that any company/entity intending to provide training and education courses to third parties, or any entity intending to use the SAP software, must enter into an "End User License Agreement" (EULA) with the Complainant; and in order to provide training and education courses, an entity must sign a relevant License Agreement with the Complainant. Therefore, the Complainant states that no individual/company can provide access to the Complainant's software to third parties for any purpose including training, nor can it become eligible or authorised to act as 'Education Partner' of the Complainant, if it does not have a valid License Agreement from the Complainant that expressly authorizes the use of SAP software and documentation for education and/or training and/or other specific purposes, given that being the Complainant's programs highly specialised and purpose specific in nature, they require deep knowledge and understanding of their features. The Complainant adds that it maintains a detailed software license database that contains all relevant details of all SAP partners and the particular nature of license in its favour.

As to its SAP trademark, the Complainant states to have spent EUR 7,505 million in 2022 in sales and marketing expenses what helped its SAP trademark become immensely popular. The Complainant further states that its SAP trademark ranked 21st (twenty first) in Interbrand's list of the Best Global brands (2018) as well as has continuously ranked as one of the top 50 most valued brands since 2001, having been valued at USD 31,497 million in Interbrand's Best Global Brands 2022.

The Complainant submits that the disputed domain names are subject to common control by either the same person or connected parties and for reasons of fairness, equity and efficiency, the Complainant requests consolidation of the multiple Respondents to the same Complaint, given that: i) four of the ten disputed domain names share the same contact addresses and two of the disputed domain names share the same email address; ii) all of the disputed domain names share the same Registrar, Webhost and IP address; iii) all of the disputed domain names have been used in connection with the offer of unauthorized online training courses; and iv) none of the named Respondents is an authorized Education partner or has entered into an Education license agreement with the Complainant to provide education courses.

Moreover, the Complainant submits that all of the disputed domain names incorporate the Complainant's famous SAP trademark with the addition of "ewm", "mii", "hana", "Fiori", "rar", "s4 hana", "training", "online", "finance", "hybris", "vistex", and "brim", which will further intensify the confusion as EWM, MII, HANA, Fiori, RAR, Hybris, Vistex and Brim are popular SAP courses provided by the Complainant and therefore the disputed domain names wrongly convey the message that online training is imparted for the aforesaid courses by the Respondents.

As to the Respondents lack of rights or legitimate interests in respect of the disputed domain names, the Complainant contends that:

- (a) the Respondents' purpose in choosing the disputed domain names was plainly to use the fame of the Complainant's SAP mark to generate web-traffic and to confuse Internet users who might be looking for the Complainant and its famous services;
- (b) the Respondents are not and have never been known by the SAP mark/name or by any similar name;
- (c) the disputed domain names have been used in connection with the offering of competing services in order to attract Internet users to their websites, thus creating a likelihood of confusion with the Complainant's SAP trademark as to the sponsorship, affiliation, or endorsement of the websites, what is neither a *bona fide* offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain names; and
- (d) the Complainant has not authorized the registration and use of the disputed domain names by the Respondents, what is further strong evidence that the Respondents have no rights or legitimate interests in the disputed domain names.

As to the registration of the disputed domain names in bad faith, the Complainant asserts that the Respondents knew or should have known of the Complainant's trademark rights at the time of the registration of the disputed domain names considering that it has acquired considerable fame and goodwill worldwide. Further, the Respondents' intent to target the Complainant can easily be inferred from the use made of the disputed domain names in connection with the offer of online courses on the Complainant's software.

## **B. Respondents**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

Before turning to these questions, however, the Panel needs to address the issue of the consolidation of the multiple Respondents.

### **A. Consolidation of Multiple Respondents**

The Complainant requests that this Panel accept the multiple Respondents in a single proceeding in view of the facts enumerated at the section 5.A. above.

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) establishes that "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the

consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.”

All of the aforementioned criteria are present in this case and therefore this Panel accepts such request considering that it would be more procedurally efficient to have all of the disputed domain names dealt with at the same procedure, given that: (a) all of the disputed domain names share the same Registrar; (b) all of the disputed domain names share the same Webhost; (c) all of the disputed domain names share the same IP address; (d) all of the disputed domain names have been used in connection with similar webpages offering online courses on the Complainant’s softwares (Annexes 22 to 31 to the Amended Complaint); (e) all of the disputed domain names indicate Respondents based in India or Australia; (f) all of the disputed domain names share a similar naming pattern, reproducing the Complainant’s trademark + a term relating to one of the Complainant’s computer programs and “training” and, at times, “online”, “billing” and “finance”; and (g) four of the ten disputed domain names share the same contact addresses and two of the disputed domain names share the same email address.

This Panel is satisfied, in view of the evidence submitted and on the balance of probabilities that the disputed domain names are indeed subject to a common control and that consolidation would be fair and equitable to all Parties.

### **B. Identical or Confusingly Similar**

The Complainant has established its rights in the SAP trademark duly registered in several jurisdictions around the world.

The Panel finds that the disputed domain names reproduce the Complainant’s trademark in its entirety. The addition of the terms “brim”, “online”, “training”, “ewm”, “fiori”, “hybris”, “billing”, “mii”, “rar”, “s4hana”, “finance”, “vistex”, does not avoid a finding of confusing similarity under the Policy which, as recognized by past UDRP panels, involves a “comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.” ([WIPO Overview 3.0](#), section 1.7.)

The first element of the Policy has therefore been established.

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

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that may indicate the Respondents’ rights to or legitimate interests in the disputed domain names. These circumstances are:

- (i) before any notice of the dispute, the Respondents’ use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondents (as individuals, businesses, or other organizations) have been commonly known by the disputed domain names, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondents are making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the Complainant has made out a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names. The burden of production has therefore shifted to the Respondents to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests.

The Respondents, in not responding to the Complaint, have failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names. This entitles the Panel to draw any such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules.

As seen above, all of the disputed domain names have been used in the past in connection with the offer of online courses on the Complainant's computer programs and presently most of the disputed domain names are not in use or resolve to webpages displaying PPC links. Indeed such use cannot be considered here a *bona fide* offering of goods or services nor legitimate noncommercial or fair use under the Policy, especially considering the Complainant's strict policy on training and education courses which require a relevant License Agreement with the Complainant and/or specific authorization to act as 'Education Partner' of the Complainant, given the Complainant's programs highly specialised and purpose specific which require deep knowledge and understanding of the Complainant's programs features.

Furthermore, the composition of the disputed domain names, wholly incorporating the Complainant's trademark with a term relating to one of the Complainant's computer programs and "training" and, at times, "online", "billing" and "finance", carries a risk of implied affiliation. See section 2.5.1, [WIPO Overview 3.0](#).

Also, considering the Complainant's statement that it maintains a detailed software license database that contains all relevant details of all SAP partners and the particular nature of license in its favour and that the Respondents are not part thereof nor have been authorized to the registration and use of the disputed domain names, in addition to the lack of evidence on record showing that the Respondents have been commonly known by the disputed domain names, is a further indication that the Respondents lack rights or legitimate interests in the disputed domain names.

The second element of the Policy has also been met.

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

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of the disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, the past use of all of the disputed domain names in connection with the offer of online courses on the Complainant's computer programs and the present use of half of the disputed domain names in connection with webpages displaying PPC links, characterizes the Respondents' likely intent of commercial gain by profiting from the notoriety of the Complainant's SAP well-known trademark.

For the reasons above, the Panel finds that the Respondents have registered and used the disputed domain names in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Further, the Panel finds that the current non-use of four of the disputed domain names does not prevent a finding of bad faith.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. ([WIPO Overview 3.0](#), section 3.1.4.)

Two further elements that indicates the Respondents' bad faith are the Respondents' choice to retain a privacy protection service to conceal the Respondents' true identity and the indication of false addresses in the WhoIs data and, consequently, the Center not being able to have communications fully delivered to the Respondents.

The Panel finds that the disputed domain names were registered and are being used in bad faith. The third element of the Policy has therefore been met.

## **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 <sapbrimonlinetraining.org>, <sapbrimtraining.com>, <sapewmtraining.com>, <sapfiorionlinetraining.com>, <saphybrisbillingtraining.com>, <sapmiionlinetraining.com>, <sapraronlinetraining.com>, <saps4hanabrimtraining.com>, <saps4hanafinanceonlinetraining.com> and <sapvistexonlinetraining.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: April 27, 2023