

ADMINISTRATIVE PANEL DECISION

SAP SE v. Adrian Fernandez and Lacasadelsap como
Case No. D2024-3296

1. The Parties

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

The Respondents are Adrian Fernandez and Lacasadelsap como, Panama.

2. The Domain Names and Registrar

The disputed domain names <lacasadelsap.com> and <lacasadelsapides.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 August 12, 2024. On August 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 13, 2024, 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 August 14, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on August 14, 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 Respondents of the Complaint, and the proceedings commenced on August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondents did not submit any response.

Accordingly, the Center notified the Respondents' default on September 6, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on September 10, 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.

4. Factual Background

The Complainant is a German based corporation founded in 1972, that develops enterprise software to manage business operations and customer relations. According to the Complaint, the Complainant is a market share leader in enterprise application software and has more than 437,000 customers in more than 190 countries.

The Complainant owns hundreds of trademark registrations for its SAP mark, and formatives, in all major markets around the globe. Relevant trademark registrations include the following:

- International Trademark Registration No. 638470, registered on June 2, 1995, in respect of goods and services in classes 9, 16, and 42;
- International Trademark Registration No. 726890, registered on November 15, 1999, in respect of goods and services in classes 9, 16, 35, 41, and 42;
- European Union Trademark Registration No. 001270693, registered on July 9, 2002, in respect of goods and services in classes 9, 16, 18, 25, 28, 41, and 42.

The record shows that the Complainant's SAP marks are heavily advertised and widely recognized in industry and media worldwide. The Complainant's trademark SAP was ranked number 20 among the world's brands by the Interbrand's Best Global Brands of 2023.

The Complainant has registered the domain name <sap.com> on January 18, 1995, to support its business and has operated a website on this domain name supporting the mission of the business since then.

The disputed domain name <lacasadelsap.com> was registered on April 2, 2021, while the disputed domain name <lacasadelsapides.com> was registered on February 20, 2023. The disputed domain names resolve to websites that purports to offer SAP training materials and server access. The website under the disputed domain name <lacasadelsapides.com> contains a reference to "SAP Training", which, when clicked, directs the visitor to the website under the disputed domain name <lacasadelsap.com>.

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:

- (1) The disputed domain names are confusingly similar to the Complainant's SAP trademark. Both disputed domain names comprise with the terms "lacasadel" followed by an exact reproduction of the Complainant's trademark SAP, which does not provide a sufficient differentiation from the famous SAP trademark.

(2) The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent has no rights or any other legitimate rights in the SAP trademark, nor has it been authorized or licensed by the Complainant to use its SAP trademark. The Respondent is seeking to capitalize on the Complainant's brand, and to lure customers seeking legitimate SAP training materials and SAP server access. The Respondent is using the disputed domain names to misrepresent itself as an authorized retailer and distributor of SAP products and services and to trade off the SAP mark. The Respondent cannot demonstrate that it has used, or is using, the disputed domain names in connection with a bona fide offering of goods or services.

(3) The Respondent has registered and is using the disputed domain names in bad faith. The disputed domain names are trading on the Complainant goodwill to attract users to the Respondent's websites, which evidence in bad faith. Registration of the disputed domain names that are confusingly similar to the famous SAP trademark by an entity that has no relationship to the Complainant's SAP trademark is sufficient evidence of bad faith registration and use.

B. Respondents

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

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states 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 addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

Upon information available and Panel's belief, the Registrant of each disputed domain name is the same. The top left corner of the homepage of both websites to which the disputed domain names resolve, incorporate the SAP Logo and are very similar in their design, layout, color, text, and naming patterns ("lacasadel" followed by SAP).

As regards common control, the Panel notes that the disputed domain names:

- a) share an identical Registrar, nameserver, and privacy service;
- b) use the same email information according to the Registrar – "lacasadelsap@[...].com";
- c) the website at each of the disputed domain names links directly to each other (in particular, the website under the disputed domain name <lacasadelsapides.com> contains a reference to "SAP Training", which, when clicked, directs the visitor to the website under the disputed domain name <lacasadelsap.com>);

- d) target the same trademark and follow the same composition pattern;
- e) both resolve to websites that offer SAP training materials and server access.

The Respondents have not replied to the Complaint.

The Center has discharged its duties to notify the persons listed as registrants of the disputed domain names. The Respondents have not submitted a formal Response or objected to the consolidation request of the Complainant or to its arguments in support of the request.

As regards to fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2 Substantive issues

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

The onus of proving these elements is on the Complainant even though the Respondent failed to submit a Response.

Paragraph 15(a) of the Rules directs the Panel to decide the 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

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 3.0](#), section 1.7.

Based on the evidence in the case file, the Panel finds that the Complainant has shown rights in respect of SAP trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant’s trademark 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.

Furthermore, the Panel considers that addition of the prefix “lacasadel” followed by the Complainant’s SAP trademark, as well as suffix “ides” in one of the disputed domain names does not prevent a finding a confusing similarity ([WIPO Overview 3.0](#), at section 1.8). This is further proved by the content of the website associated with the disputed domain names, which is usually disregarded by panels when assessing confusing similarity under the first element.

However, in this case the Panel has taken note of the content of the websites associated with the disputed domain names to confirm confusing similarity whereby it appears prima facie that the Respondent seeks to target a trademark through the disputed domain names. [WIPO Overview 3.0](#), section 1.15.

The Panel notes that the generic Top-Level Domain “.com” is required only for technical reasons and, as is common in proceedings under the UDRP, is generally ignored for the purposes of comparison of the Complainant’s trademarks to the disputed domain names. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademarks and that the first element of paragraph 4(a) of the Policy is satisfied.

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 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 no trademark rights or any other legitimate rights in the mark SAP, nor has it been authorized or licensed by the Complainant to use this trademark to offer SAP training materials and server access. The Respondent is not a reseller of SAP products and is not an authorized SAP partner or consultant.

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 disputed domain names resolve to websites impersonating the Complainant and/or its authorized training partners, purporting to provide SAP training services. The disputed domain names do not provide any information as to their lack of relationship with the Complainant despite repetitious references and uses of the SAP trademark and logo. Coupled together with the composition of the disputed domain names, which combine the SAP trademark with the prefix “lacasadel” (translating to, “the house of”), it is clear that the Respondent sought to mislead Internet users expecting to find the Complainant or its authorized affiliates for its commercial gain. Panels have held that the use of a domain name for illegal activity (e.g., 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.

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.

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 long time ago, 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.

The Respondent registered the disputed domain names having no rights in the mark SAP. Further, the Respondent is using the Complainant's registered logo as a favicon but also in the content of the websites to which the disputed domain names resolve, falsely creating the impression that it is associated with the Complainant.

Given that the disputed domain names incorporate the Complainant's trademark with additional descriptive terms, 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.

Panels have held that the use of a domain name for illegal activity (e.g., 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 off 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 <lacasadelsap.com> and <lacasadelsapides.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: September 24, 202