

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation (IBM) v. Gary Ramah  
Case No. DAI2023-0029

### **1. The Parties**

Complainant is International Business Machines Corporation (“IBM”), United States (“US”), represented internally.

Respondent is Gary Ramah, US.

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

The disputed domain name <watson.ai> (the “Domain Name”) is registered with 101domain, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 14, 2023. On September 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name. The Center sent an email communication to Complainant on September 18, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint as to those elements of the Respondent contact information that were not available to be presented in the Complaint. Complainant filed an amendment to the Complaint on the same day. In response to a notification by the Center that the Complaint was administratively deficient, Complainant filed an amended Complaint on October 3, 2023.

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 Respondent of the Complaint, and the proceedings commenced on October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023. The Response was filed with the Center on October 24, 2023.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on November 2, 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.

Complainant submitted a supplemental filing on November 2, 2023, providing new information responsive to Respondent's factual allegations concerning the Domain Name's registration date and certain other factual matters. The Panel observes that neither the Policy nor the Rules provide for supplemental filings and instead contemplate only for a single submission from each Party, unless "the Panel may request, in its sole discretion, statements or documents from either of the Parties." Rules, para. 12. Indeed, "[u]nsolicited supplemental filings are generally discouraged, unless specifically requested by the panel." See WIPO Overview of the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.6.

Here, the Panel notes that Respondent in its Response raised certain factual allegations regarding the Domain Name's registration date that could not have been anticipated by Complainant. Therefore, in view of the Rules, para. 10(b), providing "the Parties are treated with equality and that each Party is given a fair opportunity to present its case", the Panel accepts Complainant's supplemental submission insofar as it contains information responsive to these allegations in Respondent's Response. Moreover, in response to Complainant's supplemental filing, the Panel issued Procedural Order No. 1 on November 8, 2023, providing in relevant part:

"In view of the arguments raised by the Complainant in its supplemental filing (in particular, the Complainant's factual allegations concerning the registration date for the disputed domain name), submitted to the Center on November 2, 2023, the Panel affords the Respondent seven (7) calendar days from the date of this Procedural Order No. 1 to comment on the Complainant's assertions and to submit such comments to the Center no later than Tuesday, November 15, 2023."

On November 13, 2023, counsel for Respondent notified the Center that it was withdrawing from representing Respondent in this case. On November 16, 2023, Respondent submitted its response to Complainant's supplemental filing. The Panel accepts Respondent's supplemental response insofar as it provides comments on new factual allegations in Complainant's supplemental filing.

#### **4. Factual Background**

Since the 1880s, Complainant has been a leading innovator in the design and manufacture of many technology products, including computers and computer hardware, software, and accessories. Complainant was incorporated in 1911 and officially became International Business Machines in 1924. Complainant has been offering products and services in the information technology space since that time. Initially, these products included office and research equipment, including punch machines, calculating machines, clocks, and scales. Complainant has introduced and created innovations including the first Dial Recorder in 1888; the first IBM computer in 1944; the IBM 70, its first large vacuum tube computer, in 1952; the computers and software programs for the Apollo missions in 1969; the IBM PC, the first home computer, in 1981; and the ThinkPad, a new series of notebook computers, in 1992.

Today, Complainant is one of the oldest and largest information technology and consulting companies, with a presence in over 175 countries through its wholly owned subsidiaries with over 288,300 employees worldwide. Complainant's revenue from its worldwide operations for 2022 was USD 60.53 billion and its net income was USD 1.63 billion. In addition to expenditures on product development, Complainant spent over USD 6 billion on advanced research in both 2022 and 2021.

In 2022, Complainant was ranked 18th most valuable global brand by BrandZ, 18th best global brand by Interbrand, 49th largest company on the Fortune U.S. 500 list, and 168th largest company on the Fortune Global 500 list. In 2021, Complainant was ranked 15th most valuable global brand by BrandZ, 18th best

global brand by Interbrand, 42nd largest company on the Fortune U.S. 500 list, and 121st largest company on the Fortune Global 500 list. In 2020, Complainant was ranked 14th most valuable global brand by BrandZ, 14th best global brand by Interbrand, 38th largest company on the Fortune U.S. 500 list, and 118th largest company on the Fortune Global 500 list. Several UDRP panels have found that Complainant's IBM trademarks are famous and well-known around the world. See e.g., *International Business Machines Corporation (IBM) v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-2572](#); *International Business Machines Corporation v. Erik Popovic*, WIPO Case No. [D2017-2464](#); and *International Business Machines Corporation v. Linux Security Systems srl*, WIPO Case No. [DRO2010-0004](#).

Complaint has provided evidence concerning its WATSON trademark and related technology efforts. Complainant states that in 2010 it "introduced WATSON, a question answering computer system capable of answering questions posed in natural language." WATSON is known for its artificial intelligence ("AI") services and capabilities. WATSON was developed by Complainant's research team and named after Complainant's founder and first CEO, Thomas J. Watson. Complainant has devoted substantial resources toward maintaining and building its WATSON portfolio. In 2011, Complainant's WATSON computer competed against two humans on the quiz show, Jeopardy!, winning the first-place prize of USD 1 million. In 2014, Complainant invested USD 1 billion to launch the IBM Watson Group, a business unit dedicated to developing and commercializing Complainant's artificial intelligence technology. Also in 2014, Complainant invested USD 100 million in a 10-year initiative to use WATSON and other IBM technologies to help African countries address development problems. In 2015, Complainant partnered with Apple Inc., Johnson & Johnson, and Medtronic Plc to develop Watson Health Cloud, a health-based offering that provides insights on personal health and wellness. In 2017, Complainant and MIT University established a new joint research venture in artificial intelligence, where Complainant invested USD 240 million to create the MIT-IBM Watson AI Lab.

Complainant has devoted substantial resources toward maintaining and building its WATSON portfolio. Complainant spends over USD 1 billion annually marketing its goods and services and has undertaken extensive efforts to protect its name and brands and enforce its trademarks. Complainant exerts control over use of its trademarks, including its WATSON brand and related trademarks portfolio, imposes strict quality control measures over goods and services offered in connection with its trademarks, and diligently pursues infringers of these trademarks.

Complainant owns numerous trademark registrations (and applications) for its WATSON trademarks in countries around the world, registered in International Classes 9, 16, 35, 38, 39, 41, and 42 for a range of goods and services, including information technology related goods and services (including for computers; computer software; computer linguistics; machine learning which is capable of understanding general human questions; natural language processing; computer hardware, namely, a computer that is capable of integrating elements such as Natural Language Processing ("NLP"), Computational Linguistics ("CL"), Information Retrieval ("IR"); and related technology and consulting services). Complainant's has provided evidence of more than 35 documents corresponding to more numerous trademark registrations for its WATSON marks, including the following marks: WATSON (word mark), WATSON (stylized word mark), WATSON (logo), IBM WATSON, WATSON IOT, WATSON ANALYTICS, WATSON OPENSACLE, and ASK WATSON. Moreover, the list of countries where these WATSON marks are registered includes Australia, Bahrain, Brazil, Bulgaria, Canada, China, Egypt, European Union, France, Germany, India, Japan, Jordan, Mexico, Morocco, Myanmar, Oman, Russia, Spain, Switzerland, and Tunisia, United Arab Emirates, United Kingdom, and US.

A review of Complainant's trademarks offered in evidence shows the earliest application and registration date for the WATSON (word and device mark) in France and the United Kingdom (now expired) dating from October 24, 2003. Moreover, Complainant has provided evidence of numerous WATSON trademarks with a priority date of March 21, 2011, applications and registrations dating from September 20 and 21, 2011, and indicating that the mark has been used since at least as early as February 21, 2011. In the US, Complainant has submitted evidence that it filed an application on June 20, 2011, for IBM WATSON with a first use in commerce on April 27, 2009, and the mark was registered on November 15, 2016. Similarly, ASK WATSON was registered through the Madrid System in multiple countries on September 21, 2011, with a priority date

of March 21, 2011. Complainant also owns several domain names with a naming structure similar to the Domain Name, including <watson.com.ai>, <watson.blog>, <watson.dev>, and <watson.services>.

Since the release of the WATSON computer in 2010, Complainant has continuously used the trademark WATSON in association with computers and computer products and services. Today, Complainant's WATSON products and services are valued at USD 5.5 billion and projected to reach USD 76.47 billion by 2033. Complainant offers industry-leading AI expertise and a portfolio of solutions to enterprises under the WATSON brand. Complainant works in various segments, including, but not limited to, computer products and services, financial services, consumer goods, energy, government, retail, and telecommunication. WATSON is now used by 70 percent of global banking institutions and has over 100 million users. Further, 13 of the top 14 systems integrators use Complainant's WATSON services. Most recently in 2023, Complainant announced its next generation AI and data platform, named "watsonx".

In 2020, Complainant was named a leader in IDC MarketSpace's 2020 Vendor Assessment For Worldwide Advanced Machine Learning Software Platforms for Complainant's range of machine learning capacities as part of its WATSON portfolio. Complainant was also named a leader in Forrest Wave's Multimodal Predictive Analytics and Machine Learning Q3 2020 Report, giving WATSON STUDIO the highest score in data, model evaluation, and platform infrastructure categories. In 2021, Complainant was named a leader, specifically for Complainant's WATSON artificial intelligence services and software, in Gartner's 2021 Magic Quadrant for Cloud AI Developer Services and 2021 Magic Quadrant for Data Science and Machine Learning Platforms reports. In 2022, Complainant's WATSON products earned spots on G2's 2022 Best Software Awards. In 2023, Complainant WATSON products were named on G2's 2023 Best Software Awards and Complainant was recognized as a leader for its WATSON-related products in IDC MarketSpace's 2023 Vendor Assessment for Worldwide Advanced Machine Learning Software Platforms and Gartner's 2023 Gartner Magic Quadrant for Enterprise Conversational AI Platforms.

The Whois look-up for the Domain Name indicates that it was registered on December 16, 2017. However, Respondent has provided evidence that this date is likely inaccurate. According to the explanation below, there was a technical migration of domain names within the ".ai" country code Top-Level Domain ("ccTLD") registry to a system using the Extensible Provisioning Protocol ("EPP"). As a result, the registration date for a particular domain name in the ".ai" ccTLD, reflected in Whois records as December 16, 2017, may not be accurate, and the domain name could have been registered at an earlier date. Reviewing the EPP FAQ Terms and Conditions for the ".ai" ccTLD, found at "whois.ai/eppfaq.html", paragraph 26 provides as follows:

"26. The Dec 16, 2017 registration date seems wrong?

When domains were loaded onto epp.whois.ai on Dec 16, 2017 the new system took that as the birthday for all the domains. Really many domains were around many years before that. The expiration dates correctly handled during the migration, but the registration date is not correct."

At the time the Complaint was submitted, the website linked to the Domain Name appears to display Respondent's art, along with contact details. The "About" page of the site contains two links to a website that describe a software named "Dr. Watson", which is apparently a "scientific project assistant software" program. The websites and their URLs (listed below) have no apparent connection to Respondent, while the site at the domain name <cavebear.com> contains text indicating it was last updated in November 1997.

- "<https://www.cavebear.com/archive/dwtnda/spd.html>"

- "<https://juliadynamics.github.io/DrWatson.jl/dev/>"

Respondent is a senior security specialist at a major media and entertainment company. Respondent has stated that he has been researching artificial intelligence technologies since 1989. Complainant has presented evidence (in the form of copies of Respondent's LinkedIn posts) showing Respondent made specific reference to Complainant's WATSON, WATSON AI, and WATSON ANALYTICS brands and trademarks as early as September and October 2014. Respondent has registered a number of other ".ai" domain names, including <free.ai>, <full.ai>, <guardian.ai>, <hard.ai>, <mac.ai>, <research.ai>, <seed.ai>, <soft.ai>, <spring.ai>, <spy.ai>, <that.ai>, <this.ai>, <vote.ai>, and <war.ai>.

## 5. Preliminary Considerations

### A. Key Issue

The Panel observes that a key issue to be decided in this case is the date when the Domain Name was registered by Respondent. As noted above, Whois records for the Domain Name specify December 16, 2017, as the registration date; however, records for the “.ai” ccTLD registry indicate that, due to a technical migration of domain names within the registry, this registration date is likely inaccurate. Complainant in its Complaint had initially assumed that the December 2017 date was the correct date for the Domain Name’s registration. But Respondent, in his Response, provided evidence to show a problem with the accuracy of registration dates for domain names in the “.ai” ccTLD registry. As discussed below, Respondent claimed repeatedly in his Response that he acquired the Domain Name “at least as early as 1997.” Complainant in its supplemental filing has rejected this contention and provided additional evidence to suggest a later date, while Respondent in its supplemental filing has provided his further response.

The Panel has summarized the parties’ contentions below. They should be read with this key issue in mind, as well as the sequence in which the evidence was developed through the exchange in the parties’ pleadings.

### B. Applicable Law

A further preliminary point concerns applicable law. The Panel observes that Respondent, in his Response and while contesting the three required elements under paragraph 4(a) of the Policy, has made extensive reference to US trademark law and related US court cases. The Panel recognizes that a complainant’s trademark rights, for purposes of the first element under paragraph 4(a)(i) of the Policy, must be established by reference to national law. However, the Panel follows the guidance provided by [WIPO Overview 3.0](#), section 4.15, which states that “[p]anel[s] have broadly noted that insofar as the UDRP system is designed to operate in a global context, while rooted in general trademark law principles, in its own terms UDRP jurisprudence generally would not require resort to particular national laws”. As stated in *Ocwen Financial Corporation v. David Goad / S Zoeller / Domain Administrator*, See [PrivacyGuardian.org](#), WIPO Case No. [D2018-2578](#), “[i]ndeed, as its name implies, the UDRP is intended to provide an international and uniform policy across top-level domains for resolving disputes between trademarks owners and domain name registrants. See also *Green Bay Packers, Inc. v. Moniker Privacy Services / Montgomery McMahon*, WIPO Case No. [D2016-1455](#). Further, as stated in *1066 Housing Association Ltd. v. Mr. D. Morgan*, WIPO Case No. [D2007-1461](#), an approach applying local rules “risks the UDRP fragmenting into a series of different systems, where the outcome to each case would depend upon where exactly the parties happened to reside”. Moreover, as a policy matter, “the act of bringing local law into the assessment of the Policy when taken to its logical conclusion as a matter of practice undermines the... goal of commercial certainty”. Id. This point is further supported because the Policy, on the one hand, and local laws (and related procedures) as to cybersquatting, trademark infringement and principles of fair use, on the other hand, are different in several important respects, such that a set of facts might conclusively establish trademark infringement under domestic law, yet not be considered bad faith registration and use under the Policy, or vice versa. Id.

With this guidance in mind, the Panel decides this case in accordance with the criteria for decision set forth in the Policy and relevant UDRP jurisprudence.

## 6. Parties’ Contentions

### A. Complainant

#### (i) Identical or confusingly similar

Complainant maintains that the Domain Name is identical or confusingly similar to Complainant’s WATSON trademarks within the meaning of paragraph 4 of the Policy.

Complainant contends that as a result of the high quality of the WATSON trademarked goods and services Complainant has provided to its customers over the past decade, and its global reputation as one of the premier developers of artificial intelligence computer offerings and related goods and services, Complainant's name and its WATSON trademarks are well-known, widely recognized and valuable assets.

Complainant also relies on the extensive range of registered and pending trademarks comprising WATSON and its well-known WATSON brand.

Complainant states that the Domain Name consists of the term "WATSON" and the ccTLD suffix ".ai", which is also commonly known as the acronym for AI. The term WATSON in the Domain Name is the same as Complainant's WATSON trademark and confusingly similar to Complainant's other trademarks which use the mark WATSON with certain other terms ("WATSON-comprising" marks). Complainant contends that where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of the UDRP. Here, confusing similarity can be found as the Domain Name incorporates the entirety of Complainant's WATSON mark and is the dominant feature of Complainant's other WATSON-comprising marks, such as WATSON WORKS and WATSON IOT.

Complainant submits that the ccTLD ".ai" serves as a minor variation that does not obviate the confusing similarity between the Domain Name and Complainant's WATSON marks. The only difference between the Domain Name and Complainant's WATSON brand is the ".ai" ccTLD, promoting a finding of confusing similarity. Therefore, Complainant concludes the Domain Name is identical or confusingly similar to Complainant's registered WATSON and WATSON-incorporated trademarks.

(ii) Rights or legitimate interests

Complainant states that it has never licensed, contracted, or otherwise permitted anyone to apply to register the Domain Name. Furthermore, there is no evidence that Respondent is using the Domain Name incorporating the WATSON brand and trademark for a *bona fide* offering of goods or services. On the contrary, Complainant contends that Respondent has been using the Domain Name to intentionally attract users to his website for commercial gain. Specifically, Respondent has been intentionally attempting to create a likelihood of confusion by using the Domain Name incorporating Complainant's widely recognized WATSON brand to drive traffic to his website, where he displays his artwork and contact information, and in so doing promoting himself and his artwork using Complainant's mark and falsely appearing to be affiliated with Complainant and Complainant's WATSON products and services. Based on a thorough review of Respondent's website, Complainant believes in good faith that Respondent has no relation to or interest in the term "watson". Respondent's name does not comprise Watson, nor does his artwork suggest any reference or connection with the name Watson.

Furthermore, Complainant asserts that the two links on the "About" page of the website linked to the Domain Name – which bring users to third-party websites that reference the "Dr. Watson" software – do not justify Respondent's use of the term "watson" in the Domain Name. A Google search found no results for a connection between Respondent and the Dr. Watson software. Similarly, the ".ai" ccTLD suffix, which is reasonably and commonly understood as the acronym for AI, has no correlation to Respondent's art.

Complainant argues that considering the lack of any apparent interest in the term "watson" or the ccTLD suffix ".ai", Respondent is intending to reference Complainant's WATSON brand, which encompasses a host of AI offerings. Respondent's website features his "select work" and contact information. Given that Respondent is selling his artwork on two other platforms, Complainant contends Respondent's use of the Domain Name centers on advertising his artwork to potential purchasers, who may connect with him via the contact information provided on the website. Thus, Complainant claims Respondent is attracting users to his website to purchase his artwork and reaping commercial gain by creating a likelihood of confusion with Complainant's WATSON brand and trademarks.

Additionally, Complainant states Respondent has no legitimate interest in the Domain Name as Respondent has failed to put it to a legitimate use for any significant period of time within the registration term. The Domain Name's use has oscillated between being inactive to hosting incomplete and unrelated websites since its registration date. Specifically, from January 4, 2018, to October 2, 2019, the Domain Name directed to a blank page. From October 30, 2019, to January 29, 2020, the Domain Name linked to a webpage for Respondent's purported professional interpreter services. However, Complainant claims the services appear to be fake, as Google search results do not show any connection between professional interpreter services and Respondent. Further, from August 4, 2020, to April 23, 2021, the Domain Name hosted an incomplete webpage titled "John Watson Family Travel Blog". Complainant states this, however, does not justify the use of WATSON in the Domain Name because John Watson appears to be a pseudonym, as Google search results find no relationship between Respondent and "John Watson". Further, it does not seem that the website was ever used to host "John Watson's" travel photos, as the site never displayed any content and continuously indicated it was being updated. Additionally, from July 27, 2022, to November 4, 2022, the Domain Name hosted an incomplete webpage only displaying the text "WATSON.AI". Currently, as of May 9, 2023, the Domain Name has been hosting a site displaying Respondent's art.

Complainant maintains none of these incomplete and unrelated websites suggest Respondent's legitimate interest in using the term Watson. Complainant asserts that such unauthorized use of the WATSON brand and trademark is likely to trick consumers into erroneously believing that Complainant is somehow affiliated with Respondent or endorsing Respondent's commercial activities, while in fact no such relationship exists. Therefore, Complainant can affirm with good faith that: (i) there is no evidence of any Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to it in connection with any *bona fide* offering of goods or services; (ii) Respondent has not been commonly known by the Domain Name; and (iii) Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

(iii) Registered and used in bad faith

Complainant states the Domain Name comprises its widely recognized WATSON trademark. The only difference between the Domain Name and the WATSON mark is the addition of the ccTLD suffix ".ai". Further, Google search results for "Watson AI" serve as a testament to the high degree of recognition attributed to Complainant's WATSON brand. Hence, Complainant contends a presumption of bad faith must be found against Respondent. Complainant contends Respondent was well aware of Complainant's trademark at the time Respondent registered the Domain Name on December 16, 2017.

Complainant's submits its trademarks are widely recognized around the world. Complainant relies on the extensive range of registered trademarks for the WATSON brand. Further, Complainant claims Respondent's knowledge of Complainant's WATSON brand is evidenced by his multiple LinkedIn posts, going back as early as 2014, where Respondent references Complainant's WATSON marks. As Respondent has referenced Complainant's WATSON offerings on multiple occasions, Complainant states that when registering the Domain Name in 2017, Respondent was well aware of Complainant's WATSON mark. Furthermore, Complainant argues the registration of a domain name that is confusingly similar to a trademark by an entity that has no relationship to that mark may be sufficient evidence of opportunistic bad faith. In the present case, the Domain Name is confusingly similar to Complainant's portfolio of WATSON trademarks, and Respondent has no relationship to Complainant or the WATSON brand, nor does any relation exists between the term WATSON and Respondent.

Complainant submits that even if Respondent had a legitimate interest for using "Watson", there are other gTLD suffixes available that would be more relevant to Respondent's current website content, such as ".art" or ".media". Complainant also states public databases show Respondent has previously registered a multitude of ".ai" ccTLD domain names. Complainant states this evidence, in conjunction with the Respondent's LinkedIn posts on different occasions about AI and Complainant's WATSON computer, prove Respondent's familiarity with Complainant's brand, as well as his intentional reference to Complainant's WATSON brand and its host of AI offerings. Given that the term "Watson" has no relation to Respondent, but rather relates to Complainant's WATSON AI offerings, Respondent's registration and use of the Domain



Name is an attempt to capitalize on the goodwill associated with the Complainant's mark and to stop Complainant from reflecting its brand in a domain name, and therefore shows bad faith on the part of Respondent.

Moreover, Complainant sent a cease-and-desist letter to Respondent on June 8, 2023, asking Respondent to disable and transfer the Domain Name to Complainant. Respondent did not reply to Complainant's letter, further showing bad faith on Respondent's part. Even after receiving a cease-and-desist letter, Respondent continues to use the Domain Name, as evidenced by the fact that the registration remains valid, and the Domain Name continues to be active and undergoing updates. In fact, Complainant asserts following its cease-and-desist letter to Respondent, Respondent updated the "About" page of the Domain Name to include URL links to third-party webpages referencing the Dr. Watson software, which Complainant contends is a clear attempt to create an illusion of interest in the term "watson". Respondent's continued use of the Domain Name following Complainant's letter has been found in previous UDRP decisions to constitute bad faith.

Additionally, Complainant maintains Respondent has been actively using the Domain Name, which contains only the (unadorned) WATSON brand and trademark, to attract users to its website for commercial gain. Specifically, Respondent has been intentionally attempting to create a likelihood of confusion by using the Domain Name as a promotional platform to advertise Respondent's artwork for sale. Further, the ccTLD ".ai" has no correlation to art, nor does Respondent have any correlation to the WATSON name. Thus, Complainant argues Respondent has been intentionally attempting to create a likelihood of confusion by using the Domain Name to generate revenue through falsely appearing to be affiliated with Complainant, and in so doing increase Internet user traffic to his site.

Complainant further states Respondent has registered the Domain Name through a privacy shield service. Complainant submits previous UDRP panels have considered that concealing identity and contact information may point to bad faith in itself, explaining that in the circumstances where a respondent has registered a disputed domain name involving a complainant's well-known trademark, it seems reasonable to infer that the main purpose the respondent used a privacy service is to cause the complainant difficulty in identifying other domain names registered by the same registrant. So too here, Complainant claims Respondent has used a privacy service to shield identity, which is an indication of bad faith. As discussed earlier, Respondent has used the Domain Name to resolve to unrelated and incomplete websites (mostly lacking any information on Respondent) or inactive pages throughout the registration period. Respondent's use of a privacy service shows his attempt to cause difficulty for Complainant to adequately protect and enforce its WATSON brand. In fact, Respondent only began identifying himself on the website of the Domain Name on May 9, 2023, the same day Complainant announced its "watsonx" offering. Complainant claims it has already experienced direct harm in multiple ways including by Respondent's intentional act of registering the Domain Name to hinder Complainant from reflecting its brand in a corresponding domain name.

Finally, Complainant submits bad faith exists pursuant to the doctrine of passive holding, because the Domain Name comprising the WATSON brand and trademark has not been used in connection with any *bona fide* and legitimate purpose since its registration date. The Domain Name oscillated between being inactive to hosting incomplete and unrelated websites for a majority of its registration period, as discussed above. Complainant refers to section 3.3 of [WIPO Overview 3.0](#), observing that from the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. While panels look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.



As applied to this case, Complainant maintains the WATSON mark is distinctive and widely recognized in connection with Complainant's computer- and AI-related offerings; Respondent failed to respond to Complainant's correspondence or provide any evidence of actual or contemplated good-faith use; Respondent masked his identity on the Whois records by using a privacy shield service; and lastly, given Respondent's historical uses for the Domain Name, it is implausible that there would be any good faith use to which it may be put. Moreover, over the last five years the Domain Name has been registered by Respondent, a majority of the time it displayed a blank or incomplete webpage. According to the Wayback Machine digital archive, from January 4, 2018, to October 2, 2019, the Domain Name's webpage directed to a blank page; from October 30, 2019, to January 29, 2020, the webpage offered professional interpreter services; however, such services appear to be fake, as Google search results do not show any connection between professional interpret services and Respondent. In fact, Google search results display Respondent's occupation as senior security specialist at a major US media and entertainment company. Further, from August 4, 2020, to April 23, 2021, the Domain Name hosted an incomplete webpage titled "John Watson Family Travel Blog"; however, for the entirety of this period the webpage never displayed any pictures or blog posts, and rather was continuously being "revamped". This does not justify the use of WATSON in the Domain Name because John Watson appears to be a pseudonym, as Google search results do not show a relationship between "John Watson" and Respondent. Further, it does not appear that the website was ever used to host "John Watson's" travel photos. Lastly, there is no reason for the use of ".ai" ccTLD for a travel blog. Additionally, from July 27, 2022, to November 4, 2022, the Domain Name hosted an incomplete webpage only displaying the text "WATSON.AI". Currently, as of May 9, 2023, the Domain Name is hosting a page displaying Respondent's art. The varying content hosted on the Domain Name throughout its registration period suggests that it has never been used for any legitimate use, and rather as a fallacious website. Complainant argues it is clear Respondent has intentionally been passively holding the Domain Name as he has failed to put it to any legitimate use during the entirety of the registration period.

For all the foregoing reasons, Complainant contends Respondent registered and is using the Domain Name in bad faith.

#### (iv) Complainant's Supplemental Filing

Complainant observes that many of Respondent's arguments are based on the claim that the Domain Name was registered more than a decade prior to when Complainant began using its WATSON mark. Specifically, Respondent claims that because the Domain Name was allegedly registered in 1997 and this registration predates Complainant's WATSON marks, there can be no finding of bad faith registration or use. Complainant disagrees. While Respondent claims that the Domain Name was "registered since the early 1990s, with documentation of such registration, at least, since 1997", Complainant claims Respondent has not provided any substantiated evidence showing the specific registration date pertaining to Domain Name, let alone dating it back to 1997.

While Respondent submitted evidence to show that the December 2017 registration date listed on the Whois record for the Domain Name may be incorrect, it does not show that the Domain Name was registered in 1997. In light of Respondent's claims, Complainant referenced multiple databases to verify the actual registration date for the Domain Name, including DomainTools' Whois History Records and the Wayback Machine, both of which monitor activity of domain names after they are registered. Both sources show no record of the Domain Name in 1997 and indicate the earliest activity associated with the Domain Name is in 2014 and 2015. Complainant states it began using the WATSON trademark in 2010, at least four years before the Domain Name is believed to have been registered. Complainant contends it is likely that the Domain Name was actually registered between 2014 or 2015, as the Whois history records for all the other ".ai" domain names associated with Respondent date back to 2014 and 2015.

Complainant also asserts that the evidence submitted by Respondent – concerning the third-party websites linked on the "About" page of the Domain Name's site – is irrelevant as it pertains to a separate domain name that is not subject to this Complaint. Complainant states Respondent's argument is factually and technically inaccurate, namely the claim that because the Domain Name displays a hyperlink to a webpage

at the <cavebear.com> domain name which was last updated in 1997, this means the Domain Name itself was active in 1997. The registration date associated with one domain name has no bearing on the registration date of separate domain name, as registration dates are not transferable. Further, there is no evidence showing Respondent's relation to or ownership of the "Dr. Watson" software referenced through the links on the About page of the Domain Name's site. There is no evidence indicating that Respondent is associated with these links, the Dr. Watson software programs, or the Watson name. Moreover, Complainant states the links regarding the Dr. Watson software are relatively new links added to the Domain Name's site, and do not explain Respondent's use of the Domain Name during previous periods.

As to Respondent's argument that his use of the Domain Name is fair use because Respondent is using the Domain Name "to communicate with other domains," Complainant admits that such communication is "how computers and the internet function." Thus, Respondent is essentially reiterating an inherent feature of all computers and the World Wide Web. Further, if Respondent was in fact using the Domain Name for research purposes, it is questionable as to why Respondent would display content relating to the promotion and sale of his artwork. Thus, it is clear that the Domain Name was not solely used for research purposes, as indicated by the current content displayed at the Domain Name and previous content to which the Domain Name resolved.

Regarding Respondent's research background from 1989-1990, Complainant submits that it was in a context entirely separate from that of the Domain Name; such research predates the registration date of the Domain Name and does not indicate any present fair use relating to the content on the site linked to the Domain Name.

## **B. Respondent**

### **(i) Identical or confusingly similar**

Respondent submits the Domain Name is not identical or confusingly similar to a trademark or service mark in which Complainant has rights. Respondent observes that while Complainant has registrations for trademarks containing the term WATSON, Complainant does not have common law or trademark registration rights in the term "watson.ai".

Respondent claims he is making fair use of the Domain Name because it does not function as a trademark; thus, no consumer confusion can occur with any of Complainant's trademarks. Respondent refers to US common law and the Lanham Act to indicate that the only type of use that can qualify as "classic fair use" is use by a defendant in a non-trademark sense. Here, Respondent claims he does not use the Domain Name as a trademark or source identifier; rather, Respondent's claims his use is descriptive as "ai" is descriptive of artificial intelligence and "Watson" is descriptive of a question-and-answer technology. Respondent claims that many companies and individuals use variations of "watson" in connection with technology, which demonstrates the descriptive nature of "watson" in connection with artificial intelligence and related technology goods and services. Respondent contends "watson" or "watson ai" are generally used as a phrase to describe a question and answering chatbot that has a personality. The use of "watson" in this manner alludes to the personality of Dr. Watson in the Sherlock Holmes' stories by Sir Arthur Conna Doyle. Respondent claims many in the AI field use the term "watson" as a nod to Sherlock Holmes, and the amount of this use has associated "Watson" directly with AI, which shows its descriptive nature. For example, Respondent provides a research paper referring to work on a "Dr. Watson" type inference engine. The Panel independently verified that the paper, a copy of which was submitted by Respondent, dates from June 23, 2021. Respondent also refers to two apps listed on the Apple store that contain "Watson AI" as part of their title. Respondent claims this further demonstrates the descriptive nature of "Watson" and "ai".

Respondent argues "watson.ai" is not used as a source identifier and is merely the name of the Domain Name that Respondent uses to communicate with other domain names. Also, Respondent claims he uses the Domain Name for research, which is good faith use. As such, Respondent's use is not trademark use and is instead fair use protected by US common law and the Lanham Act.

Respondent argues, alternatively, that if his use is to be considered trademark use and the Domain Name is inherently distinctive, then Complainant may *not* have legitimate rights in its respective marks, under the doctrine of first-in-time, first-in-right. Referring again to US trademark law, Respondent claims the normal rules of trademark priority apply to disputes involving domain names. For inherently distinctive marks, ownership goes to the first entity to use the designation as a mark. Here, if trademark usage is found by this Panel, then Respondent's claims his common law rights would begin in 1997. Conversely, Complainant can only show use of its marks as early as 2010. Thus, under common law, Respondent is the senior user and has priority, establishing Respondent's use cannot be confusingly similar to a mark that came after it.

In addition, Respondent contends that if the Panel believes the Domain Name is considered trademark use, then confusion is highly unlikely. In the context of the UDRP, Respondent submits that application of the confusing similarity test would typically involve a straightforward visual or aural comparison of the trademark with the alphanumeric string in the domain name. Here, when comparing the Domain Name with Complainant's listed trademarks, Respondent asserts it is evident Complainant does not use or own an identical mark (i.e., "watson.ai"). Thus, first of all, the Domain Name is not identical to a trademark or service mark in which Complainant has rights. Next, Respondent submits the Domain Name is not confusingly similar to a trademark or service mark in which Complainant has rights because conflicting composite marks are to be compared by looking at them as a whole, rather than breaking them into their component parts. When viewed in their entireties, Respondent states "watson.ai" and Complainant's marks are not confusingly similar due to the ".ai" suffix and the additional words in some of Complainant's WATSON-comprising marks (e.g., "openscale," "analytics, and "IOT"). Respondent states the addition of ".ai" describes artificial intelligence. On the other hand, the addition of the words "openscale," "analytics, and "IOT" do not have this same suggestion of AI and, instead, create completely different suggestions in the mind from a visual and auditory perspective. As such, Respondent concludes the Domain Name and Complainant's marks are not confusingly similar.

Respondent also argues that even if the Domain Name is identical to the senior user's mark, if the goods or services advertised at the website are sufficiently different from those identified by the mark, there will be no likelihood of confusion. Respondent submits that under US law, initial interest confusion on the Internet is determined, in large part, by the relatedness of the goods offered and the level of care exercised by the consumer. Here, Respondent states the content on Respondent's website linked to the Domain Name does not show use for commercial purposes; rather, the content is of artwork merely displayed and with links regarding artificial intelligence for research purposes. Respondent claims the average consumer is highly unlikely to be confused that the Domain Name is in any way associated with Complainant, as Complainant sells goods and services and its WATSON related marks are not used for nonprofit research. Moreover, Complainant is a well-known company worldwide and consumers are unlikely to believe the Domain Name is in any way associated with Complainant.

In conclusion, Respondent submits the Domain Name is not identical or confusingly similar to the trademarks in which Complainant may have rights.

(ii) Rights or legitimate interests

Respondent maintains he has rights or legitimate interests in respect of the Domain Name because he is making legitimate noncommercial and fair use of it without an improper intent. Respondent cites several US federal court cases (involving domain names or websites that criticize a trademark owner) to argue that he makes fair use of the Domain Name. Respondent states he is making legitimate noncommercial and fair use of the Domain Name because he uses it to communicate with other domain names, generally, in furtherance of Respondent's research. This research is noncommercial and in furtherance of education in AI. Essentially, Respondent contends he uses the Domain Name to "talk" to other computers and this use is not for an improper intent and has nothing to do with Complainant. Respondent's use is for a legitimate noncommercial purpose – for research in AI.

Respondent also claims it is impossible to find improper intent or "intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark" for two reasons. First, in the period prior to

Complainant's use of the term "watson," Respondent could not have had an improper intent because Complainant's use did not yet exist. Second, in the period after Complainant began use of its WATSON mark, Respondent has continued to use the Domain Name for research in AI. Therefore, Complainant's use has continued to be for a legitimate noncommercial purpose and constitutes fair use. Lastly, upon a review of the content located at Respondent's Domain Name, Respondent states it is clear he has made no efforts to portray the Domain Name as having any association with Complainant. Respondent maintains the content located at the Domain Name is relevant and demonstrates there is no intent to create confusion because it has nothing to do with Complainant, its products, and trademarks. It is highly likely any viewer of the Domain Name would make absolutely no association as to source or ownership with Complainant, as Complainant is a large worldwide company with resources to create a different look and feel from the contents found at the website lined to Respondent's Domain Name.

As such, Respondent has a right to and legitimate interest in retaining the Domain Name.

(iii) Registered and used in bad faith

Respondent contends Complainant cannot establish that the Domain Name was registered in bad faith, and used in bad faith. Respondent states the Domain Name was registered prior to Complainant's trademarks and is not being used in bad faith.

Respondent states [WIPO Overview 3.0](#), section 3.8, notes that usually, when a domain name is registered before a complainant's trademark is acquired (either by common law or registration), the registration of the domain name could not have been in bad faith because the registrant could not have known of the complainant's future rights. Respondent cites several UDRP cases finding that, when the disputed domain name was registered *before* the complainant's trademark, the respondent did not register the domain name in bad faith. Respondent contends that the Panel should find similarly here.

Respondent states bad faith registration cannot be found when Respondent's Domain Name was registered in 1997, at least 13 years before Complainant acquired any of its WATSON related trademarks rights. While Complainant has stated its earliest use of any WATSON related trademark began in 2010, Respondent claims it has had the Domain Name registered since the early 1990s, with documentation of such registration, at least since 1997. Accordingly, it is impossible for the Domain Name to have been registered in bad faith.

Respondent has provided evidence that the Whois registration date of December 16, 2017, for the Domain Name is inaccurate. As noted above, the Whois Terms and Conditions for the ".ai" ccTLD registry, found at "whois.ai/eppfaq.html," explain, under paragraph 26, the following:

"The Dec 16, 2017 registration date seems wrong. When domains were loaded onto epp.whois.ai on Dec 16, 2017 the new system took that as the birthday for all the domains. Really many domains were around many years before that. The expiration dates correctly handled during the migration, but the registration date is not correct."

Thus, the ".ai" ccTLD Whois Terms and Conditions show the Domain Name was registered prior to 2017 and the date provided on Whois' is inaccurate.

Respondent also states he provided evidence to show he acquired the Domain Name at least as early as 1997 to use for research and to communicate with other domain names. Respondent provided a screenshot of a third-party webpage at the link found on the Domain Name's current site, which shows 1997 as the last date that the content on that website was modified. That page reads as follows: "Modified November 15, 1997". By contrast, Complainant states the earliest date it began using the term Watson as a trademark was in 2010. Therefore, Respondent argues it is impossible to find bad faith registration, as Respondent could not have been aware of Complainant's desired trademark usage, which came 13 years later. There can be no bad faith use if Complainant's use did not exist, because there can be no intent to exploit the rights of Complainant when Complainant's rights were nonexistent at the time of registration of the Domain Name.

Further, Respondent submits the Domain Name has not been used in bad faith since Complainant's trademark rights were acquired. Since 1997, Respondent has been using the Domain Name in good faith by using it to communicate with other domain names and for the purposes of research, generally, in AI. Respondent states he has been researching AI technologies since 1989. In this regard, Respondent has submitted a copy of a relevant portions of a PowerPoint presentation showing Respondent's name as a researcher in 1989 through 1990.

Respondent refers to the four examples of circumstances that constitute evidence of bad faith registration and use under the Policy, paragraph 4(b): (i) holding the domain name for ransom from the trademark owner; (ii) registering the domain name to block the trademark owner; (iii) registering the domain name to disrupt the business of a competitor; and (iv) registering the domain name to confuse users into coming to the respondent's website. Here, Respondent claims none of the four examples are applicable. First, Respondent could not have held the Domain Name for ransom from Complainant when Complainant's use of the trademark did not even exist at the time of registration of the Domain Name. Respondent had been using the Domain Name for over 13 years prior to Complainant's use of its trademark, so an intention for ransom cannot exist, and Respondent continues to use the Domain Name for research and is not holding it for ransom. Second, Respondent could not have registered the Domain Name to block Complainant as a trademark owner for the same reasons. At the time of registration, Complainant had no trademark use; thus, "blocking" would not have been possible. Third, Respondent could not have disrupted the business of Complainant as the registration was before Complainant's trademark use. Moreover, even if the Domain Name was registered after Complainant's rights began, Respondent is not a competitor of Complainant as Respondent's use of the Domain Name is noncommercial and for research, whereas Complainant's use is for commercial purposes. Fourth, Respondent claims the Domain Name was not registered to confuse users into coming to it, as Complainant's use did not exist at the time the Domain Name was registered. Thus, confusion was not possible, and Respondent's intent was not to confuse anyone. Moreover, the Domain Name is also not designed to confuse anyone – even from the perspective of the least sophisticated purchaser, its clear Complainant did not design, is not associated with, and does not own the Domain Name and the website to which it resolves.

In conclusion, Respondent contends the Domain Name was not registered and is not used in bad faith.

(iv) Supplemental reply

Respondent claims the AI research community has recognized the term "watson" before Complainant acquired any of its WATSON trademarks. Respondent refers to a research paper posted on Cornell University's <arxiv.org> website, which provides an open-access archive for more than 2 million scholarly articles in various fields. The article, "Dr. Watson type Artificial Intellect (AI) Systems," by Saveli Goldberg, Stanislav Belyaev, Vladimir Sluchak, appears to have been posted on the <arxiv.org> site on June 23, 2021. Footnote 11 of that paper refers to another paper by SI Goldberg titled "Inference Engine the Systems of the Dr. Watson Type," listed as being presented at the DIMACS (Center for Discrete Mathematics and Theoretical Computer Science) Workshop at Rutgers University in 1997.

Respondent further claims that Complainant's reliance on the Internet Archive Wayback Machine to challenge the registration date for the Domain Name is inconclusive as this tool primarily monitors Web 1.0 landing pages and the Domain Name is not part of the Web 1.0 infrastructure. Respondent asserts the landscape of the Internet has evolved over the years, moving from the static Web 1.0 to the interactive and dynamic Web 2.0, and now transitioning to the decentralized and user-centric Web 3.0. Respondent states the Domain Name actively contributes to the research ecosystem, and any assessment of its usage should be considered in the broader context of technological evolution. The absence of a Web 1.0 landing page is irrelevant to the previous and current research use of the Domain Name, as the Domain Name does not rely on HTTP landing pages to function. Thus, no periods of inactivity have occurred and the tools Complainant has used to claim inactivity are incapable of monitoring a decentralized application research project. Respondent argues Complainant adopts a static view of the Internet, overlooking the rapid advancements in technology and the shift toward decentralized applications. Respondent asserts he has actively and purposefully used the Domain Name in line with the features and requirements of a decentralized application

research project. The nature of the Domain Name has evolved to align with the advancements in the decentralized application technologies using the Domain Name for research, involve periodic updates, changes, and adaptations to stay relevant and functional. The out-of-date tools used by Complainant are not equipped to capture the complexities of a modern decentralized application.

Respondent also reviews the registration dates for several of Complainant's WATSON trademarks, claiming in each instance that the trademark registration was "many years after the estimated registration date of Disputed Domain Name in 2014-2015 according to the Complainant." On this basis, Respondent contends Complainant "lacks a trademark for just 'Watson' predating the registration of the Disputed Domain Name, according to the estimated registration date of 2014 or 2015" for the Domain Name.

Next, Respondent asserts that his expertise in AI research and technologies, including the Dr. Watson toolset, during the late 1980s and early 1990s, constitutes a legitimate interest in the Domain Name. To support this point, he has submitted a copy of a PowerPoint presentation titled "Research Experience for Undergraduates in Computer Vision at UCF" [University of Central Florida] by a third-party author, which purports to contain a list of students who studied at UCF during 1989-1990. Respondent's name is on the list. Respondent contends this shows his good faith in adopting and using the Domain Name, highlighting his longstanding commitment to AI since its foundational stages. This historical context strengthens Respondent's fair use argument by demonstrating his AI research involvement, emphasizing that use of the Domain Name is a continuation of that historical engagement, not an attempt to exploit Complainant's trademarks.

While Complainant asserts that Respondent has used the Domain Name for commercial gain by promoting his artwork, Respondent responds the display is intended to let other AI researchers know who to contact in the case of issues with AI. The mere presence of contact information on a website does not inherently transform it into a commercial venture, especially when the primary focus is contact for research purposes. Respondent claims the primary focus of the landing website, as indicated by the presence of contact information, is to facilitate communication for research purposes. This primary focus aligns with Respondent's background in AI research, and serves as a platform for collaboration and communication within the AI research community.

## **7. Discussion and Findings**

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. Those elements are as follows:

- (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

### **A. Identical or Confusingly Similar**

The Panel finds that Complainant has established strong rights in its widely-known WATSON and WATSON-comprised trademarks, based on ownership of trademark's registrations in numerous countries including the US, and through widespread use and promotion of the WATSON marks in commerce. As stated in section 1.1.2 of [WIPO Overview 3.0](#), "[n]oting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element" of the Policy. Moreover, Complainant has asserted that it spends millions of dollars promoting its WATSON marks and that its WATSON products and services are now used by 70 percent of global banking institutions and with over 100 million users.

Respondent has argued he should be considered the senior mark holder in relation to Complainant's trademarks, claiming common law rights beginning in 1997. However, even assuming the year 1997 can be considered an accurate reference time for Respondent's registration of the Domain Name (this point is considered below in relation to the third element of the Policy), Respondent has submitted no evidence whatsoever to indicate that he has used the Domain Name in a manner that would give rise to any common law rights in it or in the term "watson.ai". As pointed out by Complainant, Respondent's use of the Domain Name has been erratic, including long periods of non-use (as discussed below), and there is no evidence of any genuine use in support on a *bona fide* offering of goods or services that would justify a finding of common law trademark rights. To be clear, Respondent has also never claimed to have any registered trademark rights in the "watson.ai" term.

Moreover, assuming the Domain Name was registered sometime in 1997 and thus pre-dates Complainant's trademark rights, section 1.1.3 of the WIPO Overview adds in relevant part that "[t]he fact that a domain name may have been registered before a complainant has acquired trademark rights does not by itself preclude a complainant's standing to file a UDRP case, nor a panel's finding of identity or confusing similarity under the first element." Instead, section 1.1.3 indicates the timing of the acquired trademark rights may be relevant to the third element of the Policy, stating "[w]here a domain name has been registered before a complainant has acquired trademark rights, only in exceptional cases would a complainant be able to prove a respondent's bad faith."

Respondent has also argued that "watson" is a descriptive term when used for AI and question-and-answer technology. Respondent has referenced a research paper from 2021 (with a footnote to a paper dating from 1997) and two apps that include the terms "Watson AI" offered in the Apple app store. Respondent has also referred to other third-parties that use the term "watson" in other contexts. Against these assertions, the Panel weighs Complainant's evidence of the more than 35 records for registration of numerous trademarks in countries around the world for Complainant's WATSON and WATSON-comprising trademarks. Complainant has registered these marks in relation to a range of information technology goods and services, including computers, software, and computer systems that comprise AI technologies, as well as for related information technology consulting and services. There is no evidence in the record that any country, on grounds of descriptiveness or otherwise, has refused registration or required Complainant to disclaim the name "Watson" as all or part of any of Complainant's WATSON marks. Moreover, Complainant has provided evidence that its WATSON mark is highly promoted, widely-known and has a strong reputation in the AI and related information technology fields. A Google search for "Watson AI" confirms this view, as it brings back numerous results, virtually all of which refer to Complainant and its WATSON AI products, services and related activities. At the same time, Respondent has provided no evidence to indicate he has ever used the Domain Name for his asserted descriptive purpose, nor does the website to which the Domain Name resolves support this view. All of this evidence weighs strongly *against* a finding that the term "watson.ai" in the Domain Name is merely descriptive for AI and question-and-answer technology, and not distinctive in relation to Complainant's WATSON marks.

Respondent has contended he does not use the Domain Name as a trademark and his use constitutes fair use, displaying his artwork with links regarding AI for research purposes. He also argues the website content weighs against a finding of confusing similarity. The Panel determines that Respondent's arguments as to any fair use should be considered when analyzing the second and third elements of paragraph 4(a) of the Policy. Moreover, as to the content on Respondent's site, section 1.15 of [WIPO Overview 3.0](#) states "[t]he content of the website associated with the domain name is usually disregarded by panels when assessing confusing similarity under the first element."

Finally, the Panel determines that the Domain Name is identical or confusingly similar to Complainant's WATSON trademarks. The Domain Name incorporates the WATSON mark in its entirety, while adding only the ".ai" ccTLD suffix. Thus, the Domain Name is identical to Complainant's WATSON marks and confusingly similar to Complainant's WATSON-comprising marks. As the section 1.7 of [WIPO Overview 3.0](#) states, "[i]t is well accepted that the first element functions primarily as a standing requirement" and the "test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name." Moreover, section 1.11.1 of [WIPO Overview 3.0](#)



provides that “[t]he applicable Top Level Domain (“TLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test,” and this is the case “irrespective of the particular TLD.” See section 1.11.2 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Domain Name is identical or confusingly similar to a trademark in which Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy. Complainant has satisfied the first element of the Policy.

## **B. Rights or Legitimate Interests**

Regarding the second element of the Policy, [WIPO Overview 3.0](#), section 2.1, states that “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

The Policy, paragraph 4(c), provides that any of the following circumstances, without limitation, if found by the panel will demonstrate rights or legitimate interests to a domain name for purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice of the dispute, the respondent has used, or made 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) the respondent has been commonly known by the domain name, even if the respondent 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.

Here, the Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the Domain Names, thus shifting the burden of production of evidence to Respondent. In particular, Complainant has not authorized Respondent to use Complainant’s WATSON or WATSON-comprising trademarks for the Domain Name or any other purpose. Moreover, Respondent is not commonly known by the Domain Name; instead, Respondent is an individual with a completely different name. See [WIPO Overview 3.0](#), section 2.3 (respondent must be commonly known by the relevant moniker (e.g., a personal name, nickname, corporate identifier), apart from the domain name). Complainant has provided evidence that the Domain Name’s use has oscillated between being inactive to hosting incomplete and unrelated websites, to most recently hosting a website displaying Respondent’s artwork. Based on screen shots from the Internet Archive’s Wayback Machine, as of November 4, 2022, the site for the Domain Name was blank except for the term “watson.ai” on the home page. [WIPO Overview 3.0](#), section 2.11, provides that “[p]anels tend to assess claimed respondent rights or legitimate interests in the present, i.e., with a view to the circumstances prevailing at the time of the filing of the complaint.” Recently, on or before May 9, 2023, Respondent had posted the current site for the Domain Name displaying his artwork. However, as Complainant asserts, Respondent’s artwork does not suggest any connection with the name Watson. Similarly, the “.ai” ccTLD suffix, which is also a common acronym for AI, appears to have no connection to Respondent’s art.

Further, Complainant alleges that Respondent has not used the Domain Name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Rather, Complainant claims Respondent has been using the Domain Name, which incorporates Complainant’s WATSON brand, to drive traffic to his website, where he displays his artwork and contact information. Given Complainant has provided evidence that Respondent sells artwork on two other platforms, Complainant contends Respondent’s use of the Domain Name centers on advertising his artwork to potential purchasers,

who may connect with him via the contact information provided on the site. Complainant also claims that following its cease-and desist letter to Respondent, Respondent updated the “About” page of the Domain Name to include two links to third-party webpages referencing software called Dr. Watson. Respondent has not denied this allegation. Complainant contends this is an attempt to create an illusion of interest in the name Watson, but a Google search found no results for a connection between Respondent and the Dr. Watson software.

In response, Respondent claims he has rights or legitimate interests in respect of the Domain Name because he is making legitimate noncommercial and fair use of it, in accordance with paragraph 4(c)(iii) of the Policy. In particular, Respondent states he uses it to communicate with other domain names and in furtherance of his research in the field of artificial intelligence. He claims no periods of inactivity have occurred for the Domain Name, and that the tools Complainant has used to claim inactivity are incapable of monitoring a decentralized application research project. However, beyond providing some evidence that he studied computer science at UCF in 1989-1990 and his stated interest in AI, Respondent has provided no evidence of his claimed AI research interest, which he contends the Domain Name allegedly supports. Beyond the assertions in his submissions, Respondent has provided no evidence to demonstrate he uses the Domain Name for research in AI or for some other, more technical and non-transparent decentralized research project. Respondent claims the artwork display on the Domain Name’s website is intended to let other AI researchers know who to contact to facilitate communication for research purposes, and that the site serves as a platform for collaboration and communication within the AI research community. However, beyond the words in Respondent’s pleadings, he has provided absolutely no evidence of any collaboration or ongoing research (e.g., emails, communications, reports, or articles) with third-parties concerning AI. And there is no content on the Domain Name’s website that would suggest the site is intended to serve as a platform for collaboration and communication within the AI research community.

Instead, the Panel finds that the current content of the website linked to the Domain Name does not support Respondent’s claim of using the Domain Name for research and collaboration. In accordance with section 2.5.3 of the [WIPO Overview 3.0](#), judging whether a respondent’s use of a domain name constitutes legitimate fair use will often hinge on whether the corresponding website content supports the claimed purpose. Here, the content of the Domain Name’s website displays Respondent’s artwork, unrelated to AI research. In addition, prior content on the Domain Name’s previous webpages, as Complainant has indicated (i.e., a purported “John Watson Family Travel Blog” or offering professional interpreter services, both of which appeared to be misleading), was also unrelated to research in AI. The two recently added links to third-party websites referencing the Dr. Watson software, added after Respondent received Complainant’s cease-and-desist letter, do not, without more, support Respondent’s claim that he uses the Domain Name for research purposes. Instead, in view of all of the circumstances and information in the record, the Panel views Respondent’s AI research claim as a pretext proffered in an attempt to assert a legitimate noncommercial or fair use purpose for the Domain Name.

Respondent has also argued that he had no improper intent when registering the Domain Name and he has made no efforts to portray the Domain Name as having any association with Complainant; however, these claims have more to do with the third element of the Policy (i.e., whether the Domain Name was registered and used in bad faith) and do not provide sufficient grounds in support of a legitimate noncommercial or fair use of the Domain Name.

In conclusion, in view of all of the above circumstances, the Panel finds, on the balance of the probabilities, that Respondent lacks rights or legitimate interests in respect of the Domain Name. Accordingly, Complainant has satisfied the second element of the Policy.

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

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Name in bad faith. [WIPO Overview 3.0](#), section 3.1, states “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

Here, the Panel analyzes Respondent's registration and use of the Domain Name, finding both bad faith registration and bad faith use. First, concerning the Domain Name's registration, as noted above, the Panel observes the Whois records for the Domain Name specify December 16, 2017, as the registration date; however, records for the ".ai" ccTLD registry indicate that, due to a technical migration of domain names within the registry, this registration date is likely inaccurate. Complainant in its Complaint had initially assumed that the December 2017 date was the correct date for the Domain Name's registration. However, Respondent provided evidence to show the problem with the accuracy of registration dates for domain names in the ".ai" ccTLD registry. Without a clear registration date specified by the Whois look-up record, Respondent claimed repeatedly in his Response that he acquired the Domain Name "at least as early as 1997" and that his registration of the Domain Name pre-dated Complainant's first use of the WATSON marks (in 2010) by 13 years. A lynchpin of Respondent's arguments in his Response regarding the three elements of the Policy is that he had registered the Domain Name *before* Complainant had established any of its trademark rights in the WATSON and WATSON-comprising marks.

Complainant, in its supplemental filing rejected this contention and provided evidence – including from the DomainTools' Whois History Records and the Internet Archive's Wayback Machine – to show there was no record of the Domain Name in 1997, and that the earliest activity associated with the Domain Name was in the years 2014 and 2015. Reviewing these records, the Panel finds the earliest indication of the Domain Name from the DomainTools' Whois History Records is April 17, 2014. In addition, the Wayback Machine provides a first indication of existence on September 5, 2015. For this reason, Complainant contends it is likely that the Domain Name was actually registered during this period, and that this is further confirmed by the Whois history records for all of the other ".ai" ccTLD domain names registered by Respondent, which have similar records of activity dating back to 2014 and 2015. By comparison, Complainant states that it began using the WATSON trademark in 2010, at least four years before the Domain Name is believed to have been registered by Respondent, and that Respondent was well-aware of Complainant and its widely recognized WATSON marks when registering the Domain Name. Complainant provided additional evidence, including the widely reported event in February 2011 when Complainant's WATSON computer competed against two humans on the quiz show, Jeopardy!, winning the first-place prize, and then in 2014, investing USD 1 billion to launch the IBM Watson Group. Moreover, Complainant provided evidence of Respondent's LinkedIn posts showing Respondent made specific reference to Complainant's WATSON, WATSON AI and WATSON ANALYTICS brands and trademarks as early as September and October 2014.

In the face of this evidence, Respondent in his supplemental reply, filed after his previous legal counsel had withdrawn from the case and after first claiming repeatedly that he registered the Domain Name as early as 1997, makes two arguments. First, with respect to the Domain Name's registration, Respondent does not appear to directly contest the 2014/2015 registration date for the Domain Name, as contended by Complainant. Instead of rejecting this contention, Respondent states that the registration dates for several of Complainant's WATSON trademarks were "many years after the estimated registration date of Disputed Domain Name in 2014-2015 according to the Complainant." On this basis, Respondent contends Complainant "lacks a trademark for just 'Watson' predating the registration of the Disputed Domain Name, according to the estimated registration date of 2014 or 2015" for the Domain Name. The Panel finds it is quite telling that Respondent in his supplemental reply has not attempted to directly rebut Complainant's contentions about the Domain Name being registered during the 2014-2015 period, and that Respondent also fails to provide any evidence of registration of the Domain Name as early as 1997, which Respondent had repeatedly emphasized as the date of registration in his Response – other than Respondent's initial evidence in his Response concerning links to a third-party website (with content apparently dating from November 1997) that were added to the Domain Name's site after Respondent received Complainant's cease-and-desist letter in June 2023.

The Panel has reviewed carefully Complainant's portfolio of WATSON and WATSON-comprising marks submitted into evidence in this case. As noted above, the earliest application and registration date for the WATSON word and device mark are in France and the United Kingdom, dating from October 24, 2003 (now expired). Moreover, Complainant has provided evidence of numerous WATSON trademarks with a priority date of March 21, 2011, applications and registrations dating from September 20 and 21, 2011, and indicating that the mark has been used since at least as early as February 21, 2011. In the US, Complainant

has submitted evidence it filed an application in June 2011 for IBM WATSON with a first use in commerce on April 27, 2009, and the mark was registered on November 15, 2016. Similarly, ASK WATSON was registered in multiple countries on September 21, 2011, with a priority date of March 21, 2011. All of this evidence confirms that Complainant owned WATSON and WATSON-comprising trademarks establishing Complainant's rights, which Complainant's marks pre-dates the registration of the Domain Name sometime in 2014 at the earliest, during the same period when the evidence (through Respondent's LinkedIn posts) demonstrates that Respondent was likely aware of Complainant's WATSON marks and computer systems.

The Panel determines that all of this evidence, along with Respondent's stated longstanding interest in AI since its foundational stages and the registration of the term "Watson" in the ".ai" ccTLD, which is itself an acronym for AI, makes it likely Respondent was aware of Complainant and its WATSON computer systems and related AI activities and WATSON marks, and knowingly registered the Domain Name at the earliest in 2014 with Complainant and these marks in mind, while at the same time he registered a number of other ".ai" domain names, including, for example, the domain name <mac.ai>, which corresponds to Apple Inc.'s trademark for MAC, which has been registered in the US in relation to computers and computer programs since 1996, with a date of first use of December 31, 1994. Respondent knew or should have known of Complainant's WATSON marks, or alternatively, exercised willful blindness while registering an extended list of ".ai" domain names, including the Domain Name, which is identical or confusingly similar to Complainant's WATSON and WATSON-comprising trademarks. See [WIPO Overview 3.0](#), sections 3.2.2 ("in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark") and 3.2.3 ("Panels have held that especially domainers undertaking bulk purchases or automated registrations have an affirmative obligation to avoid the registration of trademark-abusive domain names.").

Second, as discussed above, Respondent in his supplemental reply argues no periods of inactivity have occurred in relation to the Domain Name, that he has actively and purposefully used it in line with the features and requirements of a decentralized application research project, that the artwork display and contact details on the Domain Name's site is intended to let other AI researchers know who to contact to facilitate communication for research purposes, and that the site serves as a platform for collaboration and communication within the AI research community. The Panel finds, as discussed above, that beyond the assertions in his submissions, Respondent has provided no evidence whatsoever to demonstrate he uses the Domain Name for research in AI or for some other, more technical and non-transparent decentralized research project, or for collaboration and communication. Instead, in view of all of the circumstances and information in the record, the Panel considers these claims by Respondent as a pretext proffered in an attempt to assert a legitimate noncommercial or fair use purpose for the Domain Name. Here, the content of the Domain Name's website now displays Respondent's artwork and contact details, unrelated to AI research, and is more likely intended for advertising Respondent's artwork, which is available for sale on other platforms. In addition, the prior content on the Domain Name's previous webpages, as Complainant has indicated (i.e., the purported "John Watson Family Travel Blog" or offering professional interpreter services, both of which appeared to be fake), is unrelated to research in AI and appears to be prior attempts to legitimize registering the Domain Name, which corresponds to Complainant's WATSON trademarks, widely-known particularly in the computer and AI fields where Respondent has acknowledged a longstanding interest.

In conclusion, as stated in *International Business Machines v. John Doe / Anonymize, Inc.*, WIPO Case No. [D2019-2754](#), "the registration of a domain name that is confusingly similar to a trademark by an entity that has no relationship to that mark may be sufficient evidence of opportunistic bad faith." See also *Ebay Inc. v. Wangming*, WIPO Case No. [D2006-1107](#). Here, Respondent, with no relationship to the term "watson", appears to have registered the Domain Name corresponding to Complainant's WATSON marks in the ".ai" ccTLD, and then, overtime, concocted a number of different incomplete and inconsistent webpages hosted by the Domain Name, until recently shifting to using it to display Respondent's own artwork possibly for sale, all in attempts to legitimize his registration of the Domain Name. Moreover, Respondent, with his longstanding interest in AI, is in a singular position of awareness with respect to Complainant's distinctive

WATSON trademarks and related computer systems and AI activities. Moreover, section 2.14.1 of [WIPO Overview 3.0](#) provides in relevant part that “[p]articularly when the TLD is descriptive of or relates to goods or services (including their natural zone of expansion),[...] or other term associated with the complainant, the respondent’s selection of such TLD would tend to support a finding that the respondent obtained the domain name to take advantage of the complainant’s mark.” In the particular circumstances of this case, where the “.ai” ccTLD is directly related to the goods or services offered by Complainant under its WATSON and WATSON-comprising marks, and with Respondent’s acknowledged interest in the AI field, section 2.14.1’s guidance is applicable to Respondent’s registration and use of the Domain Name. Complainant has pointed to Respondent’s use of a privacy shield and periods of passive holding as indications of bad faith. The Panel finds that Respondent’s registration and use of the Domain Name is an attempt to capitalize on the goodwill associated with Complainant’s marks and to block Complainant from reflecting its brand in the Domain Name (along with Respondent’s registration of other “.ai” ccTLD domain names, including <mac.ai>, demonstrating a pattern of such conduct), and therefore shows bad faith on the part of Respondent.

Accordingly, the Panel finds that Complainant has satisfied 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 Domain Name, <watson.ai>, be transferred to Complainant.

*/Christopher S. Gibson/*

**Christopher S. Gibson**

Sole Panelist

Date: December 28, 2023