

## **ADMINISTRATIVE PANEL DECISION**

### **International Baccalaureate Organization v. John Smith / Host Master Case No. D2022-1777**

#### **1. The Parties**

The Complainant is International Baccalaureate Organization, Switzerland, represented by Pellervo Digital B.V., Netherlands.

The Respondents are John Smith, United States of America (“United States”) and Host Master, United States.

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

The disputed domain name <ibdocuments.com> is registered with Tucows, Inc.

The disputed domain name <ibdocuments.xyz> is registered with NameCheap Inc.

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 17, 2022. On May 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 18, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on May 19, 2022 providing the registrant and contact information disclosed by the Registrar, and requesting the Complainant to amend the Complaint adding the Registrar-disclosed registrants as formal Respondents and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all domain names are under common control; and/or file a separate complaint for any domain name(s) for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that all domain names are under common control and indicate (by short amendment or reply email) which domain name(s) will no longer be included in the current Complaint.

The Complainant filed an amended Complaint on May 31, 2022, excluding the domain name <ibresources.org> that was part of the original Complaint.

On June 1, 2022, the Center confirmed that it shall not proceed in this case in relation to <ibresources.org>.

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 June 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on June 29, 2022.

The Center appointed Edoardo Fano as the sole panelist in this matter on July 4, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to the Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

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

The Complainant is International Baccalaureate Organization, a Swiss educational not for profit foundation, owning several trademark registrations for IB, including the following:

- Swiss Trademark Registration No. 623387 for IB, registered on December 2, 2011;
- Swiss Trademark Registration No. 629276 for IB and design, registered on May 8, 2012;
- United States Trademark Registration No. 4,156,996 for IB and design, registered on June 12, 2012.

The Complainant operates on the Internet at the main website “www.ibo.org”, as well as with several other domain names including the trademark IB.

The Complainant provided evidence in support of the above.

According to the WhoIs records, the disputed domain name <ibdocuments.com> was registered on March 8, 2018, and the disputed domain name <ibdocuments.xyz> was registered on July 2, 2020. They both resolve to the same website in which the Complainant’s logo trademark is reproduced and the Complainant’s copyrighted materials are offered.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant states that the disputed domain names are confusingly similar to its trademark IB, as the disputed domains name wholly contain the Complainant’s trademark.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common

control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it is not commonly known by the disputed domain names and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names: the disputed domain names are resolving to a website where the Complainant's logo trademark is reproduced and the Complainant's copyrighted materials are offered, with the aim to divert consumers and/or to tarnish the Complainant's trademark.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark IB is distinctive and known in the educational field. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names with the purpose to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark as to an affiliation between the Respondent and the Complainant, qualifies as bad faith registration and use.

## **B. Respondent**

The Respondents have made no reply to the Complainant's contentions and are in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn (see, e.g., *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. [D2003-0109](#); *SSL International PLC v. Mark Freeman*, WIPO Case No. [D2000-1080](#); *Altavista Company v. Grandtotal Finances Limited et. al.*, WIPO Case No. [D2000-0848](#); and *Confédération Nationale du Crédit Mutuel, Caisse Fédérale du Crédit Mutuel Nord Europe v. Marketing Total S.A.*, WIPO Case No. [D2007-0288](#)).

## **6. Discussion and Findings**

### **6.1 Consolidation of Multiple Respondents**

The Complainant has requested consolidation of multiple respondents and stated that both the disputed domain names belong to the same person or organization. No objection to this request was made by the Respondents.

Pursuant to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.11.2, "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". The Panel may consider a range of factors to determine whether consolidation is appropriate, such as examining relevant registrant contact information, and any naming patterns in the disputed domain names, or other evidence of respondent affiliation that indicate common control of the disputed domain names.

The Panel notes that both the disputed domain names follow the same naming pattern and are resolving to the same website, in which Complainant's copyrighted materials are offered and the Complainant's logo trademark is reproduced. The Panel finds that there is evidence that the disputed domain names are subject to common control, and that it would be procedurally efficient, fair, and equitable to all Parties to accept the Complainant's consolidation request. The Panel further notes that the Respondents did not object to the consolidation request. The Panel therefore accepts the Complainant's consolidation request. Hereinafter, the Panel will refer to the Respondents in the singular, *i.e.*, "the Respondent".

## 6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

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

### A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of the trademark IB both by registration and acquired reputation and that the disputed domain names are confusingly similar to the trademark IB.

Regarding the addition of the term “documents”, the Panel notes that it is now well established that the addition of terms or letters to a domain name does not prevent a finding of confusing similarity between the disputed domain name and the trademark (see, e.g., *Aventis Pharma SA., Aventis Pharma Deutschland GmbH v. Jonathan Valicenti*, WIPO Case No. [D2005-0037](#); *Red Bull GmbH v. Chai Larbthanasub*, WIPO Case No. [D2003-0709](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#)). The addition of the term “documents” does not therefore prevent the disputed domain names from being confusingly similar to the Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic gTLD, in this case “.com” and “.xyz”, is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain names are confusingly similar to the Complainant’s trademark, pursuant to the Policy, paragraph 4(a)(i).

### B. Rights or Legitimate Interests

The Respondent has failed to file a formal response in accordance with the Rules, paragraph 5.

The Complainant in its Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. It asserts that the Respondent, who is not currently associated with the Complainant in any way, is not commonly known by the disputed domain names and is not using the disputed domain names for a legitimate noncommercial or fair use or in connection with a *bona fide* offering of goods or services.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain names. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain names, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

Moreover, the Panel finds that the composition of the disputed domain names, along their use for a website offering the Complainant’s copyrighted materials and reproducing the Complainant’s logo, carries a risk of implied affiliation as they effectively impersonate or suggest sponsorship or endorsement by the Complainant.

Based on the facts of this case, the Panel finds that paragraph 4(a)(ii) of the Policy has been satisfied.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that “for the purposes of paragraph 4(a)(iii) of the Policy, the following

circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

(ii) that [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) that [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the domain name, [the respondent has] intentionally attempted 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".

Regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant's trademark IB in the educational field is clearly established and given the composition of the disputed domain names the Panel finds that the Respondent obviously knew of the Complainant and deliberately registered the disputed domain names, especially because the disputed domain names resolve to a website offering the Complainant's copyrighted materials and reproducing the Complainant's logo trademark.

The Panel further notes that the disputed domain names are also used in bad faith since on the relevant website, the Respondent is offering the Complainant's copyrighted materials and reproducing the Complainant's logo trademark, with the purpose of intentionally attempting to create a likelihood of confusion with the Complainant's trademark as to the disputed domain names' source, sponsorship, affiliation or endorsement.

The above suggests to the Panel that, in accordance with paragraph 4(b)(iv) of the Policy, the Respondent intentionally registered and is using the disputed domain names in order to create confusion with the Complainant's trademark and attract, for commercial gain, Internet users to its website.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

## **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 <ibdocuments.com> and <ibdocuments.xyz> be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: July 17, 2022