

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation v. Renu Sehgal, Renu Associates; Mohneesh Bhardwaj, International MUN; Sai YPN; Kumar More, ACE; DEBABRATA DEY; IBMINDIA PVT LTD; Vijen Kumar; Official Acc, Divine Hyundai; HARI BHAT, enroll; and KARTHICKEYAN KALIYAMOORTHY  
Case No. D2023-3386

### **1. The Parties**

The Complainant is International Business Machines Corporation, United States of America ("United States"), internally represented.

The Respondents are Renu Sehgal, Renu Associates; Mohneesh Bhardwaj, International MUN; Sai YPN; Kumar More, ACE; DEBABRATA DEY; IBMINDIA PVT LTD; Vijen Kumar; Official Acc, Divine Hyundai; HARI BHAT, enroll; and KARTHICKEYAN KALIYAMOORTHY, all located in India.

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

The disputed domain names <hiringibm.com>, <ibmacademy.org>, <ibmind.com>, <ibmindia.info>, <ibmindia.online>, <ibmindiapvtltd.com>, <ibmindia.xyz>, <ibmpvtltd.com>, <ibmtalentacquisitiongroup.com>, and <inibm.com> are registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 7, 2023. On August 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 10, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 18, 2023, providing the registrants and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 16, 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 the Respondents of the Complaint, and the proceedings commenced on October 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2023. Informal communications dated August 18, 2023 and October 18, 2023 were received by the Center from one of the Respondents, Mohneesh Bhardwaj. Accordingly, the Center notified the Commencement of Panel Appointment Process to the Parties on November 8, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on November 20, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Consolidation of Proceedings**

The Complainant seeks to have the proceedings in respect all ten of the disputed domain names consolidated and determined by way of a single Complaint.

As discussed in section 4.11.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"):

"[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."

Section 4.11.2 of [WIPO Overview 3.0](#) sets out a range of factors that panels may consider in determining whether or not the relevant domain names or websites are likely to be under common control.

In this case, the Complainant relies on a number of matters as evidencing a link between some or all of the disputed domain names. These matters include that the majority of the disputed domain names have used the same privacy protection company (Domains by Proxy); that each provides a contact email address "[...].@gmail.com"; that all have contact details in India; that many have incomplete or non-existent street addresses; that numerous of the disputed domain names have their registrar, IP addresses, mail servers and/or name servers in common; and that all the disputed domain names include the letters "ibm".

The Panel does not consider that these factors, of themselves, point to common ownership of the disputed domain names, although they may support the impression of common ownership derived from the more specific matters referred to below. In this regard, the Complainant highlights additional circumstances which the Panel does find to indicate the likely common ownership of the disputed domain names, as follows:

- <ibmindiapvtltd.com> and <inibm.com> are registered using the same phone number and the same zip code;

- <ibmindia.online> and <ibmind.com> are registered using the street addresses "YPN Complex" and "YPN Building" respectively, in the town of Nellore;

- <ibmindia.info>, <ibmindia.online>, and <ibmind.com> have all been used for the purpose of what appear to be fake recruitment emails (see further below);

- <ibmacademy.org>, <ibmtalentacquisitiongroup.com>, and <hiringibm.com> are also arguably related to recruitment for the Complainant, which together with the additional matters identified by the Complainant, implies a relationship with the two disputed domain names referred to immediately above;

- <ibmindia.info>, <ibmindia.xyz>, <ibmindia.online>, and <ibmindiapvtltd.com> all follow a naming convention which, together with the additional matters identified by the Complainant, point on balance to a commonality of ownership; and

- <ibmindiapvtltd.com> and <ibmpvtltd.com> fall into a similar category.

The Panel therefore finds, on balance, that all ten of the disputed domain names bear sufficient hallmarks of interrelationship to give rise to the conclusion that they are in common ownership.

On August 18, 2023, named Respondent Mohneesh Bhardwaj, being the registrar-disclosed registrant of the disputed domain name <ibmacademy.org>, sent an email to the Center objecting that all of the registrar-disclosed Respondents in this proceeding had been communicated with collectively. On October 18, 2023, the same Respondent sent a further email to the Center (and copied to the remaining Respondents), in response to the Notification of Complaint and Commencement of Administrative Proceeding, stating: "Stop your SPAM. Everyone Report SPAM to this email."

The Panel does not consider that either of the Respondent's emails above displace the inference that all ten of the disputed domain names are in common ownership, nor indicate any reason why it would not be fair and equitable for the proceedings to be consolidated. The Panel also notes that no other registrar-disclosed Respondent has disputed that the disputed domain names are in common ownership or objected to the proceedings being consolidated.

The Panel therefore directs that the proceedings be consolidated in respect of all ten of the disputed domain names. References to the Respondent in the remainder of this Decision shall encompass all of the registrar-disclosed Respondents accordingly.

## 5. Factual Background

The Complainant is a corporation with its headquarters in New York State, United States. It is a provider of information-processing technology, including computer hardware, software, and accessories.

The Complainant maintains trademark registrations for the mark IBM in 131 countries worldwide. Those registrations include, for example, United States trademark registration number 4181289 for the word mark IBM, registered on July 31, 2012; and India trademark registration number 428972 for a combined mark IBM, registered on October 25, 1984.

The disputed domain names were registered on the following dates:

- <hiringibm.com> on October 12, 2022;
- <ibmacademy.org> on October 16, 2022;
- <ibmind.com> on April 11, 2023;
- <ibmindia.info> on October 10, 2022;
- <ibmindia.online> on March 5, 2023;
- <ibmindiapvtltd.com> on September 9, 2022;
- <ibmindia.xyz> on February 13, 2023;
- <ibmpvtltd.com> on February 24, 2023;
- <ibmtalentacquisitiongroup.com> on January 13, 2023; and
- <inibm.com> on December 21, 2022.

According to evidence submitted by the Complainant, the disputed domain names have been used as follows:

- <hiringibm.com> appears to have resolved to a registrar "parking page" including what appear to be pay-per-click ("PPC") advertising links;

- <ibmacademy.org> does not appear to have been used for any active purpose;
- <ibmind.com> appears to have redirected to the Complainant's own website at "www.ibm.com";
- <ibmindia.info> does not appear to have resolved to any active website, but email servers appear to have been configured;
- <ibmindia.online> appears to have redirected to the Complainant's own website at "www.ibm.com";
- <ibmindiapvtltd.com> appears to have resolved to a registrar "parking page" including what appear to be PPC advertising links;
- <ibmindia.xyz> does not appear to have resolved to any active website, but email servers appear to have been configured;
- <ibmpvtltd.com> appears to have redirected to the Complainant's own website at "www.ibm.com";
- <ibmtalentacquisitiongroup.com> appears to have resolved to a registrar "parking page" including what appear to be PPC advertising links; and
- <inibm.com> does not appear to have resolved to any active website, but email servers appear to have been configured.

## **6. Parties' Contentions**

### **A. Complainant**

The Complainant contends that its trademark IBM is widely recognized worldwide. It states that in 2022 it was ranked as the 18th most valuable global brand by BrandZ, with a valuation of over USD 96 billion. It submits that it spends over USD 1 billion every year in marketing goods and services under the IBM trademark.

The Complainant contends that the disputed domain names are confusingly similar to its IBM trademark. It submits that each of the disputed domain names incorporates the mark IBM, together with, variously: the geographical term "india" or its abbreviation "in"; the abbreviations "pvt" and/or "ltd", which refer to registered companies; or descriptive terms referring to recruitment, such as "academy", "talentacquisitiongroup", and "hiring". The Complainant submits that none of these additional terms prevents its trademark IBM from being recognizable within each of the disputed domain names.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain names. It states that it has no relationship with the Respondent and has never authorized it to use its IBM trademark, that the Respondent has not commonly been known by the disputed domain names, and that the Respondent is not making *bona fide* commercial use of the disputed domain names. On the contrary, the Complainant contends that the Respondent is using a number of the disputed domain names for the purpose of email scams or other fraudulent schemes, or to obtain PPC advertising revenue by taking unfair advantage of the goodwill in the Complainant's IBM trademark.

The Complainant submits that the disputed domain names have been registered and are being used in bad faith.

With respect to all ten of the disputed domain names, the Complainant contends that a presumption of bad faith may be created by the registration in itself of a domain name that incorporates a famous or widely-known trademark (see e.g., section 3.1.4 of [WIPO Overview 3.0](#)). The Complainant further contends that, where such a registration has no legitimate connection with the trademark at issue, then “opportunistic bad faith” may be inferred (see e.g., *Ebay inc. v. Wangming*, WIPO Case No. [D2006-1107](#)).

The Complainant submits that all of the disputed domain names all misrepresent some legitimate connection with the Complainant, and particularly in the case of <ibmind.com>, <ibmindia.online>, and <ibmpvtltd.com>, which redirect to the Complainant’s own website.

The Complainant provides evidence that the Respondent has used the disputed domain names <ibmindia.info>, <ibmindia.online>, and <ibmind.com> for the purpose of fake emails purporting to come from the Complainant and soliciting applications for employment. The emails in question also refer to “IBM India Pvt Ltd”.

The Complainant further submits that the Respondent has used the disputed domain names <hiringibm.com>, <ibmindiapvtltd.com>, and <ibmtalentacquisitiongroup.com> misleadingly to attract Internet users to PPC websites, for commercial gain, by misrepresenting a connection between those disputed domain names and the Complainant’s IBM trademark.

The Complainant requests the transfer of the disputed domain names.

## **B. Respondent**

Save for the two informal email communications referred to above, the Respondent did not reply to the Complainant’s contentions.

## **7. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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

All of the disputed domain names incorporate the Complainant’s trademark IBM, which the Panel finds to be widely known worldwide and distinctive of the Complainant and its business. The Panel finds further that the disputed domain names include additional terms which include abbreviated geographical identifiers, references to corporate status, or other dictionary words, none of which prevent the Complainant’s trademark from being recognizable within the relevant disputed domain names.

The Panel therefore finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

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

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain names, or evidence of rights or legitimate interests on its part in the disputed domain names, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. On the contrary, for the reasons advanced by the Complainant, the Panel finds that the disputed domain names have been used for deceptive purposes, which cannot give rise to rights or legitimate interests.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

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

The Panel finds the Complainant's IBM mark to be a famous, or at least widely-known, mark which commands substantial commercial goodwill worldwide. In these circumstances, and in the absence of any explanation on the part of the Respondent, the Panel accepts the Complainant's submission that all of the disputed domain names, having no legitimate connection with the Complainant, raise in themselves an inference of opportunistic bad faith registration.

Further, the Complainant has established to the satisfaction of the Panel that all of the disputed domain names, with the exception of <ibmacademy.org> and <ibmindia.xyz>, have been used expressly to misrepresent a connection with the Complainant by redirecting to its own website, for the purpose of fake emails purporting to relate to recruitment by the Complainant, and/or to attract Internet users to PPC websites, for commercial gain, by misrepresenting a legitimate connection with the Complainant (paragraph 4(a)(iv) of the Policy).

With regard to the remaining disputed domain names, <ibmacademy.org> and <ibmindia.xyz>, the Panel considers that the "passive" holding of these disputed domain names by the Respondent does not prevent a finding of bad faith registration and use which arises from all the surrounding circumstances of the case (see e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). The Panel also notes that mail servers have been configured upon <ibmindia.xyz>, if not actively used.

The Panel therefore finds that the disputed domain names were registered and are being used in bad faith.

## **8. 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, <hiringibm.com>, <ibmacademy.org>, <ibmind.com>, <ibmindia.info>, <ibmindia.online>, <ibmindiapvtltd.com>, <ibmindia.xyz>, <ibmpvtltd.com>, <ibmtalentacquisitiongroup.com>, and <inibm.com> be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: November 28, 2023