

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation (IBM) v. Karan Singh  
Case No. D2023-5410

### **1. The Parties**

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

Respondent is Karan Singh, India.

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

The disputed domain names <ibm-ds.com> and <ibmdatascience.com> (the “Domain Names”) 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 December 29, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On January 2, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from named Respondent (John Doe) and contact information in the Complaint. The Center sent an email communication to Complainant on January 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on January 3, 2024.

The Center verified that the Complaint together with the amendment to the 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 January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. Respondent sent an email communication to the Center on January 4, 2024.




The Center appointed Clive L. Elliott K.C., as the sole panelist in this matter on February 8, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

Complainant was incorporated in 1911 as an amalgamation of three previously existing companies and in 1924 officially became International Business Machines. It is a leading innovator in the design and manufacture of a wide range of computers, computer hardware, software and accessories. It has been offering its products under the “IBM” (“Complainant’s Mark”) trade mark ever since.

Complainant has been the registered owner of numerous registrations for Complainant’s Mark around the world for a broad range of goods and services, including information technology related goods and services.

In particular, Complainant owns the following trade marks in the United States:

Mark	Jurisdiction	Registration No.	Date of Registration	Classes
	United States	4,181,289	July 31, 2012	9, 16, 18, 20, 21, 22, 24, 25, 28, 35, 41
	United States	3,002,164	September 27, 2005	9
	United States	640,606	January 29, 1957	9

Panels in previous UDRP decisions have noted that Complainant’s Mark has a strong reputation and is widely known around the world.

The Domain Names were registered in February and June of 2023 with the same registrar, GoDaddy.com LLC (the “Registrar”). The Domain Names have the same IP address 89.117.27.125 and appear to share the same IP location.

#### 5. Parties’ Contentions

##### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Names.

Notably, Complainant contends that the Domain Names are identical or confusingly similar to Complainant’s Mark as they both consist of the letters “ibm” followed by a descriptive term. Respectively the words “data” and “science” are added to Complainant’s Mark, and a dash “-” followed by the letters “ds” have been added to Complainant’s Mark, which Complainant contends could reasonably be understood to stand for “data science”, thus evidencing confusing similarity.

Complainant contends that it has never licensed, contracted or otherwise permitted anyone to apply to register the Domain Names.

Complainant asserts that as at the date of the Complaint, one domain name directed to a website passing off as Complainant. Complainant further contends that the Domain Names are both subject to common ownership or control.

Complainant asserts that there is no evidence that Respondent has been using the Domain Names for a bona fide offering of goods or services, but rather that Respondent has been actively using the Domain Names to impersonate Complainant by redirecting Internet users to a fake website depicting Complainant's IBM 8-bar logo. Complainant submits that Respondent is attempting to use Complainant's Mark to derive illegitimate commercial gains by providing programs claiming to be offered by Complainant, whilst all the time having the Domain Names registered through a privacy shield service, Domains By Proxy, LLC, which Complainant claims is evidence of opportunistic bad faith.

Complainant advises that it sent a cease-and-desist letter to Respondent on October 28, 2023, with a follow up letter on November 30, 2023, from which they received no response from Respondent.

## **B. Respondent**

Whilst Respondent did not reply to Complainant's contentions, on January 4, 2024, Respondent forwarded an email to the Center advising that copyright content had been removed.

## **6. Discussion and Findings**

### **Consolidation: Multiple Respondents**

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

The registrants did not comment on Complainant's request. Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing Complainant's request, the Panel needs to consider 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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that the Domain Names have been registered with the same registry, have the same IP address 89.117.27.125 and appear to share the same IP location. In the absence of any evidence to the contrary, this allows the inference to be drawn that the Domain Names are under common control, whether directly or indirectly. As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different registrants of the Domain Names (referred to below as "Respondent") in a single proceeding.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's Mark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Complainant further submits it is well-known and it points out that panels in previous WIPO decisions have noted that Complainant's Mark has a strong reputation and is widely known around the world. The Panel is satisfied that Complainant has established unregistered trade mark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The entirety of the IBM mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "ds" and "datascience" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

In this case, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Names and has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names.

In particular, Complainant asserts that there is no evidence that Respondent has been using the Domain Names for a bona fide offering of goods or services. Instead, Complainant submits that Respondent has been using the Domain Names to impersonate Complainant by redirecting Internet users to what it describes as a fake website depicting Complainant's IBM 8-bar logo. In the absence of any attempt to refute this allegation, the Panel is satisfied that such conduct does not confer rights or legitimate interests on Respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel considers that by setting up or being associated with a fake website containing Complainant's IBM 8-bar logo, Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's Mark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1. In the present case, the Panel is satisfied that the circumstances indicate that the Domain Names were registered and used in bad faith.

The Panel finds that Complainant has established 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 Names <ibmdatascience.com> and <ibm-ds.com> be transferred to Complainant.

*/Clive L. Elliott K.C./*

**Clive L. Elliott K.C.**

Sole Panelist

Date: February 21, 2024