

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation (IBM) v. xu hai min
Case No. D2024-0004

1. The Parties

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

The Respondent is xu hai min, Singapore.

2. The Domain Name and Registrar

The disputed domain name <myibmibm.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 2, 2024. On January 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (John Doe/REDACTED FOR PRIVACY (DT), Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 11, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on January 12, 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 the Respondent of the Complaint, and the proceedings commenced on January 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 8, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on February 14, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a leading US company manufacturing a wide array of products that record, process, communicate, store and retrieve information, including computers and computer hardware, software and accessories through the IBM trademark.

IBM was valued by BrandZ as worth over USD 87 billion in 2023, USD 96 billion in 2022, USD 91 billion in 2021, and USD 83 billion in 2020, thus making it one of the most important brands in the world.

The Complainant is the proprietor of several relevant US trademarks, including:

- US registration no. 4,181,289 in classes 9, 16, 18, 20, 21, 22, 24, 25, 28, 35, and 41, registered on July 31, 2012;
- US registration no. 3,002,164 in class 9, registered on September 27, 2005;
- US registration no. 1,696,454 in class 36, registered on June 23, 1992.

The disputed domain name <myibmibm.com> was registered on August 25, 2023, and resolves to a parking page with generated pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant is the owner of several earlier trademark registrations for IBM and it is widely known by the public. The disputed domain name fully incorporates the mark IBM, which is simply repeated twice and accompanied by the possessory word "my".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant confirms it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the IBM trademark in any manner.

The disputed domain name was registered and is being used in bad faith, since it has not been used in connection with a bona fide offering of goods or services (as it is connected to a pay-per-click parking page with technology-related advertisement links referencing products and services the Complainant offers).

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

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

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

The disputed domain name consists of the word "my" followed by the letters "ibmibm", exactly the same as the IBM trademark, as the only difference is the addition of the word "my" and the repetition of the IBM trademark. The IBM trademark is clearly recognizable in the disputed domain name, therefore, the addition of other terms does not prevent a finding of confusing similarity between the disputed domain name and the IBM trademark (see, in this regard, *Caterpillar Inc. v. Ryan G Foo - PPA Media Services / Domain Admin / Whois Privacy Corp.*, WIPO Case No. [D2015-1390](#) and *Equifax Inc. v. Domains by Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0698](#)).

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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

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

In the present case, the Panel notes that the Respondent surely was well aware of the Complainant's trademarks when the disputed domain name was registered because the Complainant's trademark IBM is well known around the world and the registration of a domain name that is confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

[WIPO Overview 3.0](#), section 3.1.4.

In addition, the Respondent has also been actively using the disputed domain name to derive illegitimate commercial gain, since the Respondent has been intentionally attempting to attract Internet users, by creating a likelihood of confusion with the Complainant, to the website at the disputed domain name which is a pay-per-click parking page with technology-related advertisement links referencing the Complainant's products and services.

As indicated in *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#), "It is well established that where a domain name is used to generate revenue in respect of 'click through' traffic, and that traffic has been attracted because of the name's association with the Complainant, such use amounts to use in bad faith [...] Revenue will be generated by such visitors clicking on the provided links and it does not matter whether that revenue accrues to the Respondents or the operator of the parking site".

The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view that the disputed domain name was registered and is being used in bad faith.

Thus, the Panel finds that the disputed domain name has been registered and is also being used in bad faith.

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 name <myibmibm.com> be transferred to the Complainant.

/Tommaso La Scala/

Tommaso La Scala

Sole Panelist

Date: February 28, 2024