

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Vignesh Ganesh, Ibm
Case No. D2024-0046

1. The Parties

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

Respondent is Vignesh Ganesh, Ibm, India.

2. The Domain Name and Registrar

The disputed domain name <inibm.net> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2024. On January 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent (John Doe) and contact information in the Complaint. The Center sent an email communication to Complainant on January 9, 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 9, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2024. Respondent sent an email communication to the Center on January 13, 2024, stating “I am unable to understand what is the actual issue. I have already purchased the domain & I am the owner of the domain. Pl explain clearly what is the issue & what should I do from my side to get the issue resolved. Pl do the needful on this. Awaiting for your positive reply on the same. For more

reference, pl see the below mail.” The Center notified the Parties of the Commencement of Panel Appointment Process on February 13, 2024.




The Center appointed Clive L. Elliott, K.C., as the sole panelist in this matter on February 21, 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” trade mark (“Complainant’s 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	1,696,454	June 23, 1992	36
IBM	United States	1,243,930	June 28, 1983	42
IBM	United States	1,058,803	February 15, 1977	1, 9, 16, 37, 41, 42
IBM	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.

According to the publicly available Whois, the Domain Name was registered on April 1, 2023 with the registrar, GoDaddy.com LLC (the “registrar”) and it resolves to a blank page.

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 Name.

Notably, Complainant contends that the Domain Name is identical or confusingly similar to Complainant's Mark as it contains Complainant's Mark in its entirety with the addition of the letters "in" which Complainant contends is the country code abbreviation for India. Complainant advises that it has a large presence in India and conducts its business via its Indian subsidiary IBM India Pvt Ltd, which is commonly recognized and referenced as "IBM India" or close variations thereof, incorporating the combination of IBM and India. Complainant asserts that the geographic abbreviation in the Domain Name is descriptive as an indication of the origin, which would add confusion as to the relationship between Complainant and Respondent.

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

Complainant asserts that there is no evidence that Respondent has been using the Domain Name for a bona fide offering of goods or services, but rather that Respondent has been actively using the Domain Name to impersonate Complainant to perform a phishing scam. Complainant claims that its Cyber Threat Intelligence Team reported that Respondent had been pretending to be an employee of Complainant by using the fake email address ([...][@inibm.net](mailto:[...]@inibm.net)) and offering an employment offer. Complainant alleges that Respondent has been using the deceptive email address to trick victims into believing Respondent is affiliated with Complainant's India Recruitment Team and has been soliciting communication and providing fake job offer letters containing Complainant's Marks.

Further, Complainant adds that the Whois records indicate that the Domain Name is associated with two further IP addresses which are linked to dissemination of malware and botnet command and control servers. Complainant suggests that Respondent's registration and use of the Domain Name is in bad faith with the likely intention of deceiving the public into thinking the Domain Name belongs to Complainant and in doing so infect them with malware for its own financial gain.

Furthermore, Complainant advises that it sent a cease-and-desist letter to Respondent on October 23, 2023, with a follow up letter on November 6, 2023, from which they received no response from Respondent.

B. Respondent

Respondent did not officially reply to Complainant's contentions, however Respondent did send an email to the Center stating that he had purchased the Domain Name and was therefore the owner.

6. Discussion and Findings

A. Identical or Confusingly Similar

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 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.

Adopting this approach, 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 submits that in 1924 it officially became known as International Business Machines and its abbreviation “IBM” and it has been offering its products under Complainant’s Mark ever since. Based on the evidence provided, the Panel is satisfied that Complainant’s Mark has a strong reputation and is known around the world. In addition, Complainant refers to its registered trade marks in the United States.

Accordingly, the Panel is satisfied that Complainant has established registered rights, and in addition 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. Respondent has added the letters “in” to the letters “ibm”.

The Panel finds the addition of such letters 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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. However, this is not one of those cases. Complainant alleges that Respondent had been pretending to be an employee of Complainant and has used a fake email address ([...].@inibm.net) to purport to make employment offers and effectively lure unsuspecting members of the public to respond and receive fake job offer letters containing Complainant’s Marks. It appears that the purpose of this exercise is ultimately to disseminate malware and botnets.

These allegations are serious and call for a response. Respondent has remained silent. The [WIPO Overview 3.0](#), section 2.1 indicates that if a respondent does not come forward with relevant evidence, the complainant is deemed to have satisfied the second element. In the present case, Complainant has satisfied that element.

In addition, it is reasonable to infer that Respondent’s conduct is impersonating in nature and such conduct is unlikely to confer rights or legitimate interests on a 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 Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant’s Mark and has failed to address or refute Complainant’s allegation that this is the purpose of having registered the Domain Name.

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, a number of factors support Complainant's position. Complainant's Mark has the necessary degree of distinctiveness or reputation, through extensive use. Respondent's failure to submit a response or to provide any evidence to suggest he was or is acting in good faith lends weight to Complainant's allegations. Finally, Respondent's informal email to the Center stating that he had purchased the Domain Name and was therefore the owner indicates that Respondent is minded to continue to hold himself out as legitimate, when current indications are to the contrary. Accordingly, the Panel finds that in this case, there are no circumstances substantially prevailing against a finding of bad faith under the Policy.

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 Name <inibm.net> be transferred to Complainant.

/Clive L. Elliott, K.C./

Clive L. Elliott, K.C.

Sole Panelist

Date: March 15, 2024