

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Ibm India
Case No. D2024-0407

1. The Parties

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

The Respondent is Ibm India, India.

2. The Domain Name and Registrar

The disputed domain name <staffing-ibm.com> 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 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 30, 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, Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 31, 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 31, 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 February 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 1, 2024.

The Center appointed Felipe Claro as the sole panelist in this matter on March 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 has owned trademark registrations for IBM in more than 100 countries all around the world for several decades, and for a broad range of goods and services, including, information technology related goods and services.

The Complainant has been in commerce for more than a century and owns the following trademark registrations in the US:

US trademark registration no. 4,181,289, July 31, 2012, in Classes 9, 16, 18, 20, 21, 22, 24, 25, 28, 35 and 41.
US trademark registration no. 3,002,164, September 27, 2005, in Class 9.
US trademark registration no. 1,696,454, June 23, 1992, in Class 36.
US trademark registration no. 1,694,814, June 16, 1992, in Class 36.
US trademark registration no. 1,243,930, June 28, 1983, in Class 42.
US trademark registration no. 1,205,090, August 17, 1982, in Classes 1, 9, 16, 37, and 41.
US trademark registration no. 1,058,803, February 15, 1977, in Classes 1, 9, 16, 37, 41 and 42.
US trademark registration no. 640,606, January 29, 1957, in Class 9.

The Complainant is a leading innovator in the design and manufacture of a wide array of products that record, process, communicate, store and retrieve information, including computers and computer hardware, software, and accessories.

The Complainant has been ranked by different companies among the most valuable global brands and largest companies.

The IBM trademark was valued by BrandZ as worth over USD 87 billion in 2023, USD 96 billion in 2022, and USD 91 billion in 2021.

Incorporated on June 16, 1911, as an amalgamation of three previously existing companies, the Complainant officially became International Business Machines on February 14, 1924. The Complainant has been offering products under the trademark IBM ever since. In the early days, these products included office and research equipment such as punch machines, calculating machines, clocks and scales. The Complainant introduced its first large vacuum tube computer under the name IBM 710 in 1952, and since then has continuously used the trademark IBM in association with computers and computer hardware, software, and accessories.

In 1961, the Complainant introduced the IBM Selectric typewriter. This was a significant innovation in the business sector, and the United States Postal Service issued a 2011 postage stamp featuring the IBM typewriter, commemorating the industrial designer as part of its Pioneer of American Design series of stamps.

As a result of the goods and services the Complainant has provided to its customers for over 100 years, and its reputation as one of the premier manufacturers of computers and computer related goods and services throughout the world, the Complainant's name and the IBM trademark are valuable assets.

The disputed domain name was registered on November 13, 2023. The disputed domain name resolves to a IBM log-in webpage to access a portal with the Complainant's logo.

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, as detailed in Sections 6 A, B, C below.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(e), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding based on the Complainant's undisputed representations. In that regard the Panel makes the following specific findings.

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.2.1.

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 3.0](#), section 1.7.

The Panel finds that the addition of the term "staffing-" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The disputed domain name consists of the letters "ibm", preceded by the word "staffing" and a hyphen "-", followed by the generic Top-Level Domain("gTLD") ".com". The letters "ibm" contained in the domain name are exactly the same as the IBM trademark. The only difference is the addition of the word "staffing" visually separated from the IBM mark by a hyphen "-". This minor variation does not obviate the confusing similarity between the disputed domain name and the IBM trademark. See *International Business Machines Corporation v. Adam Stevenson, Global Domain Services*, WIPO Case No. [D2016-1695](#) (holding that the disputed domain name <ibmresearchgroup.com> was confusingly similar to the trademark IBM, and the addition of the phrase "researchgroup" in the disputed domain name did not dispel the confusing similarity between the mark and the domain name).

As stated in section 1.8 of the [WIPO Overview 3.0](#), "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." See also, *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>); *Inter Ikea Systems B.V. v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *Microsoft Corporation v. Step-Web*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>).

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Complainant has never licensed, contracted, or otherwise permitted anyone to apply to register the disputed domain name. Furthermore, there is no evidence that the Respondent is using the disputed domain name incorporating the IBM trademark for a bona fide offering of goods or services, nor is there any evidence of fair use.

On the contrary, the Respondent has been misusing the IBM trademark in the disputed domain name in illegitimate ways. The Respondent is attempting to impersonate the Complainant and cause confusion among current and prospective employees of the Complainant by tricking them into believing they are logging into a legitimate IBM log-in page to access a career portal. The Respondent displays the Complainant’s “IBM” eight-bar logo prominently on the disputed domain name’s webpage. In addition, the Respondent’s webpage is being used as a log-in page, prompting unsuspecting employees and future employees of the Complainant to input their sensitive information and employment credentials.

Moreover, the Respondent configured an email server on the disputed domain name. “[This] indicate[s] the intention of [the] Respondent to potentially use the [Disputed] Domain Name for purposes other than hosting a website, including potentially for constructing an email composition containing the [Disputed] Domain Name, to be used for deceiving purposes.” See *ACCOR v. Massa, Auchan*, WIPO Case No. [D2018-1239](#) (citing *Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj*, WIPO Case No. [D2017-1225](#)).

Such unauthorized use of the IBM trademark is likely to cause consumers into erroneously believing that the Complainant is somehow affiliated with the Respondent or endorses its activities, while in fact no such relationship exists. There is no evidence of any Respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with any bona fide offering of goods or services.

There is no evidence that the Respondent has been commonly known by the disputed domain name; and the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Panels have held that the use of a domain name for illegal activity (sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never 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 disputed domain name comprises the world-famous IBM trademark and a descriptive term used in conjunction with the IBM trademark, namely “staffing-”, a term that suggests association with careers, talent acquisition, recruitment, and hiring.

Section 3.1.4 of the [WIPO Overview 3.0](#) states that a presumption of bad faith may be created solely through the “registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark...” See *International Business Machines Corporation v. Jian Liu*, WIPO Case No. [D2021-0248](#) (finding a presumption of bad faith where the respondent had registered <ibmdns.com>, which incorporated “Complainant’s famous IBM Mark” followed by a descriptive term).

The Respondent was or should have been aware of the Complainant’s famous trademark at the time the Respondent registered the disputed domain name <staffing-ibm.com>.

The Complainant’s trademarks are well-known around the world. A gap of several years between registration of a complainant’s trademark and a respondent’s registration of a disputed domain name (containing the trademark) can indicate bad faith registration (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Respondent registered the disputed domain name at least 63 years after the Complainant established registered trademark rights in the IBM mark. In the circumstances of this case, this evidences bad faith by the Respondent at the time of registration.

Further, Internet search engines yield results for the Complainant and its products/services when using “IBM” and “ibm staffing” as a search terms. This “indicates that a connection between the IBM mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant’s IBM mark when registering the disputed domain name.” See *International Business Machines Corporation v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Xie Gege*, WIPO Case No. [D2021-0245](#); see also *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); see also *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

The Respondent has registered the disputed domain name through a privacy shield service, Domains By Proxy, LLC. “Previous panels have considered that concealing identity and contact information may point to bad faith in itself.” See *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#) (citing *Schering Corporation v. Name Redacted*, WIPO Case No. [D2012-0729](#)).

The Complainant sent a cease-and-desist letter to the Respondent through the Registrar at the email addresses listed on the Whois records on November 20, 2023, and December 6, 2023, asking the Respondent to disable and transfer the disputed domain name back to the Complainant. The Respondent did not reply to, or comply with, any of the Complainant’s correspondences, further showing bad faith on the Respondent’s part. See *Encyclopedia Britannica, Inc. v. John Zucarini and The Cupcake Patrol a/k/a Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#)0330; see also *RRI Financial, Inc., v. Ray Chen*, WIPO Case No. [D2001-1242](#).

The Respondent has configured the disputed domain name to a mail server responsible for sending and accepting email messages on behalf of the disputed domain name. This “suggests that the respondent may have intended to use the disputed domain name for phishing or other fraudulent purposes.” See *Accenture Global Services Limited v. Registration Private, Domains by Proxy, LLC / Thomas Clark*, WIPO Case No. [D2019-1465](#).

The Respondent is attempting to impersonate the Complainant and cause confusion among current and prospective employees of the Complainant by tricking visitors to the disputed domain name into believing they are logging into a legitimate IBM careers portal owned by the Complainant. The Respondent’s webpage is being used as a log-in page, prompting unsuspecting Internet users to enter personal credentials. By directing Internet users to this page at the disputed domain name also risks unsuspecting IBM employees to use their work log-in credentials, which compromises their privacy as well as IBM’s cybersecurity interests, further providing evidence of bad faith.

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.

Panels have held that the use of a domain name for illegal activity (sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 disputed domain name <staffing-ibm.com> be transferred to the Complainant.

/Felipe Claro/

Felipe Claro

Sole Panelist

Date: March 28, 2024