

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation (IBM) v. Wangla, Wangla
Case No. D2024-4365

1. The Parties

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

The Respondent is Wangla, Wangla, China.

2. The Domain Name and Registrar

The disputed domain name <i-bmsvip.net> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 23, 2024. On October 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 25, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 25, 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 October 30, 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 October 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on November 26, 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

According to the information in the Complaint, the Complainant owns and has owned trademark registrations for IBM in 131 countries all around the world for several decades, and for a broad range of goods and services, including, although not limited to, information technology related goods and services. The Complainant has been offering products under the trademark IBM ever since 1924. In 2024, the Complainant was ranked the 16th most valuable global brand by BrandZ.

The Complainant owns numerous trademarks in IBM, such as the United States trademark registration no. 4,181,289 registered as of July 31, 2012, in International Classes 6, 8, 9, 11, 14, 16, 18, 20, 21, 22, 24, 25, 26, 28, 30, 35 and 41.

The disputed domain name was registered on March 10, 2024, and according to evidence with the Complaint, it was used for a website purporting to offer cryptocurrency services while displaying the Complainant's IBM eight-bar logo. The disputed domain name no longer resolves to an active website at the date of the Decision.

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.

Notably, the Complainant contends that the disputed domain name contains a dash displayed in "i-bm", but this minor variation does not obviate the confusing similarity between the disputed domain name and the IBM trademark because the dash does not change the prominent features of the trademark. The disputed domain name also contains an additional letter "s" and the words "vip", which represent an acronym for the commonly used phrase, "very important person". The addition of the letter "s", and of the acronym "vip" are merely descriptive and do not obviate the confusing similarity between the disputed domain name and the Complainant's IBM trademark.

Regarding the second element, the Complainant argues that it has never licensed, contracted, or otherwise permitted anyone to apply to register the disputed domain name. The Complainant submits that the disputed domain name is used to perpetrate a cryptocurrency investment scam, as the disputed domain name purported to be a USDT financial investment website using financial investment terminology to deceive unsuspecting users into believing that the website is legitimate. The website at the disputed domain name displayed the Complainant's famous eight-bar logo numerous times as well as photos of the Complainant's buildings at various locations.

With respect to the third element, the Complainant argues that the Respondent was well aware of the Complainant's trademarks at the registration of the disputed domain name, at least 67 years after the Complainant established registered trademark rights in the IBM trademark. The Complainant's trademarks are well-known around the world. The Complainant submits this is proof of bad faith at the time of registration of the disputed domain name. As regards the use, the website at the disputed domain name hosted a fraudulent USDT financial investment site, which was used to scam unsuspecting visitors of the disputed domain name. The disputed domain name conducted this cryptocurrency scam while displaying

the Complainant's famous IBM eight-bar logo, further contributing to the confusion that the Complainant is somehow affiliated with the Respondent or endorsing its commercial activities while, in reality, no relationship exists. Therefore, the evidence further suggests opportunistic bad faith and shows that the Respondent has registered the disputed domain name in bad faith. As of July 3, 2024, after correspondence between the Complainant and the Respondent, the disputed domain name's website has been disconnected from the server.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is 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 name, and (iii) the disputed domain name has been registered and is being used in bad faith.

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 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 contains IBM in its entirety with the difference that the disputed domain name includes a hyphen between "i" and "bm", that is "i-bm". The Panel finds the Complainant's trademark is recognizable within the disputed domain name.

Although the addition of other terms (here, "s" and "vip") 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 disputed domain name and the 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.

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 disputed domain name was being used to connect to a fraudulent website in connection with a purported scam related to the exchange of cryptocurrency. Panels have held that the use of a domain name for illegitimate activity (here, claimed a cryptocurrency scam and impersonation) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Also, there is no evidence indicating that the Respondent is commonly known by the disputed domain name. By not replying to the Complainant's contentions, the Respondent has failed to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Respondent has no rights or legitimated interests in the disputed domain name.

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.

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.

According to the un rebutted assertions of the Complainant, its IBM trademarks were used in commerce well before the registration of the disputed domain name. Given the long use of the Complainant's trademark and the display of the Complainant's trademark on the website at the disputed domain name, the Panel considers that the Respondent more likely than not knew of the Complainant's trademark when registering the disputed domain name.

Panels have held that the use of a domain name for illegitimate activity (here, claimed a cryptocurrency scam and impersonation) 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.

Although at the time of filing of the Complaint, the disputed domain name was inactive, considering the circumstances of this case, the Panel finds that such non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

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 <i-bmsvip.net> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: December 10, 2024