

ADMINISTRATIVE PANEL DECISION

International Baccalaureate Organization v. Host Master, 1337 Services LLC
Case No. D2023-4345

1. The Parties

The Complainant is International Baccalaureate Organization, Switzerland, represented by Pellervo Digital B.V., Netherlands.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <ibdocs.org> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2023. On October 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2023, the Registrar transmitted by email to the Center its verification response:

- (a) confirming the disputed domain name is registered with it;
- (b) confirming the language of the registration agreement is English; and
- (c) disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (1337 Services LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 30, 2023, 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, 2023. Upon the Center’s invitation to rectify certain information in the Complaint, the Complainant filed an amended Complaint on November 9, 2023.

The Center verified that the Complaint together with the amendment to the Complaint and amended 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 November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2023.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on December 20, 2023. 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 appears to have been established in 1968 in Geneva, Switzerland, some six years after the International Schools Association conference of teachers recommended that the International Passport of Higher Education be called the “International Baccalaureate” (IB).

In 1970, students in 12 schools from 10 countries took the first official IB exams. In 1994, middle years programs were added. In 1997, primary years programs were added. In 2006, learner diploma programs were added, and career related programs were introduced in 2012.

The Complainant currently offers its IB programs in over 159 countries through 5,400 schools. The Complainant’s four IB programs are being undertaken by 1.95 million students aged from 3 to 19 around the world.

The Complainant’s Facebook page has 171,000 followers; one of its LinkedIn accounts, 250,000 followers and, according to the Complaint, it has over 33,700 subscribers to its Instagram account and more than 70,000 followers on Twitter (X).

The Complainant has registered numerous domain names. These include <ibo.org> which has been registered since February 1996.

The Complainant states it has 435 valid and enforceable registered trademarks around the world. Annex 4 to the Complaint includes details of these. It is plain from the details included in the Complaint that these registrations are for a variety of marks. For example, the earliest registrations, dating from 1999, are for the words INTERNATIONAL BACCALAUREATE. For example, United States Registered Trademark No. 2,637,895.

A second trademark is what the Complainant describes as the IB Corporate Trilingual Logo. This mark consists of the “IB button” (see below) and the words “International Baccalaureate” in English and two other language equivalents. The earliest of these trademarks date from 2007 or 2008. For example, Switzerland Registered Trademark No. 561836.

A third trademark is the “IB button” which is a device consisting of the letters “I” and “B” enclosed within a segmented circle. The earliest registrations of this trademark are European Union Trademark No. 010915312, which has been registered with effect from May 25, 2012, in respect of a range of goods and services in International Classes 9, 14, 16, 18, 25 and 41 and United States Registered Trademark No. 4156996, which was registered in the Principal Register on June 12, 2012. In China, this trademark is Registration No. 1168932 which was registered in International Class 41 on May 14, 2013.

The Complainant also has a registration for “IB” alone: Swiss Registered Trademark No. 623387, which was registered in International Class 41 on December 12, 2011.

The disputed domain name was registered on March 22, 2023.

When the Complaint was filed, the disputed domain name resolved to a website which appears to be a repository of documents related to the Complainant’s IB courses. For example, the webpage at “www.index.ibdocs.org” includes links to “Resources”, “Repository” and “+ Extras”.

The “Resources” link includes links to links described as QuestionBank v5 – Online and QuestionBank v4 – Online which are stated to include, respectively, 2018 – 2022M Questions and 2009 – 2018 Questions. There were other links to a document entitled “Business management teacher support material” and another document entitled “Markscheme May 2023”. Both documents feature prominently on their covers the IB Corporate Trilingual Logo.

When this decision was being prepared, the landing page included a heading “ibdocs main website (temporary)” and invited users to “Buy Me a Coffee. This money helps pay server costs and buy resources.” The landing page also included links to the repository and documents described above.

Clicking on the “Buy me a coffee” link takes the browser to a page which features at the top a version of the Complainant’s “IB button” with the letters “ibdocs” superimposed. Underneath this logo is featured “IBD” and then a strapline “providing bunch of IB notes/stuff for IB students”. Then there are four tabs: Home, Membership, Posts and Commissions.

The Home tab states that:

“We provide study material for IB Students and we want to help as many students as possible because that's our ultimate goal!

“Thanks for all donations and we will be using your donations for more study materials!”

Underneath that text, there is a list of recent supporters. This appears to list a number of individuals by name and associated with each is a phrase such as “bought 5 books” or “bought 7 books” or “Someone bought 13 books”. Next to this list are options to “Buy IBD a book” with what appear to be buttons to pay \$1, \$3, \$5 or \$10.

The Membership tab solicits membership subscriptions at three rates: \$1 per month, \$3 per month or \$5 per month.

The Posts tab has two blanked out panes. Both state “This post is for members only.” One lists an option to join for \$5 per month; the second to join for \$1 per month.

The Commissions tab offers to provide “website hosting for IB-related websites” for a price of \$10 “forever” or \$20 for cpu-sensitive websites. Text on this page states that the service is available to non-profit “orgs” only and that there are “10 slots left”.

While there is a link to a disclaimer on the “index.ibdocs.org” page, that link results in a “404 Not Found” error page.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct Whois details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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.

Therefore, there are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

The Complainant has proven ownership of the Swiss registration for IB and numerous registrations for the "IB button" trademark.

The second stage of this inquiry simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of "likelihood of confusion" under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g., [WIPO Overview 3.0](#), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top Level Domain (gTLD) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

It is also usual to disregard the design elements of a trademark under the first element as such elements are generally incapable of representation in a domain name. Where the textual elements have been disclaimed in the registration or cannot fairly be described as an essential or important element of the trademark,

however, different considerations may arise. See for example, [WIPO Overview 3.0](#), section 1.10. The figurative elements of the Complainant's trademarks are not so dominating that the verbal element cannot be considered an essential or important part of the trademark in this case. Accordingly, it is appropriate to apply the usual rule.

On this approach and disregarding the “.org” gTLD, the disputed domain name consists of the Complainant's registered trademark and the string “docs”. This additional string can be seen as an abbreviation for “documents”. As this requirement under the Policy is essentially a standing requirement, the addition of this term does not preclude a finding of confusing similarity. See e.g., [WIPO Overview 3.0](#), section 1.8. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the 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 a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a 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.

The Respondent registered the disputed domain name long after the Complainant began using its trademark and also well after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The disputed domain name is not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. From the available record, the Respondent does not appear to hold any trademarks for the disputed domain name.

Based on the material on the Respondent's website, it appears the Respondent seeks to charge fees for the service it is providing, albeit purporting to be on a cost-recovery basis.

The Complainant contends, however, that the materials uploaded to the repository sections of the Respondent's websites are unauthorised reproductions of the Complainant's copyright materials. The evidence submitted in the Complaint does not go so far as to establish conclusively the authorship of the materials or the Complainant's title in the copyright. The documents, however, do appear to be the type of material in which copyright can subsist and, according to the Complainant, at least some of them bear copyright notices asserting the Complainant's ownership. As noted above, at least some of the documents included on the website bear the Complainant's IB Corporate Trilingual Logo.

In these circumstances, there is a sufficient basis to accept the Complainant's allegation that material appearing to be its copyright material, or at least its officially issued documents, are being posted on the Respondent's website without the Complainant's permission. The Complainant contends that this type of copyright infringement precludes rights or legitimate interests.

In addition, while the disputed domain name is not identical to the Complainant's trademark, there is still a risk of implied affiliation with the Complainant. That implied affiliation is not correct.

During the preparation of the Complaint for notification to the Respondent, it appears the disputed domain name resolved to a website which did include a disclaimer. At the time the decision is being prepared (and as noted above), however, there is no clear and prominent disclosure of the nature of the relationship between the Respondent and the Complainant. The apparent removal of the disclaimer does highlight the potential for a limited role a disclaimer may play in rebutting a case that a respondent does not have rights or legitimate interests in a domain name.

In these circumstances, the resemblance of the disputed domain name to the Complainant's trademark implies a false association with the Complainant and so also precludes a finding of rights or legitimate interests. See e.g., [WIPO Overview 3.0](#), sections 2.8.

These matters, taken together, are sufficient to establish a prima facie case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name. The basis on which the Respondent has adopted the disputed domain name, therefore, calls for explanation or justification. The Respondent, however, has not sought to rebut that prima facie case or advance any claimed entitlement. Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g., *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd* WIPO Case No. [D2010-0470](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

Given the content of the website to which the disputed domain name resolves, it cannot really be doubted that the Respondent was well aware of the Complainant's trademark when registering the disputed domain name.

In a context where the Respondent has been found not to have rights or legitimate interests in the disputed domain name, the registration and use of the disputed domain name which falsely implies an association with the Complainant through the resemblance of the disputed domain name to the Complainant's trademark constitutes registration and use in bad faith.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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 <ibdocs.org> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: January 3, 2024