

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation v. Danvenchy Global  
Collections Ltd.

Case No. D2022-1377

### **1. The Parties**

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

The Respondent is Danvenchy Global Collections Ltd., Canada.

### **2. The Domain Name and Registrar**

The disputed domain name <ibmglobalmanagement.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2022. On April 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 18, 2022.

The Center appointed Masato Dogauchi as the sole panelist in this matter on June 2, 2022. 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**

Whereas the Respondent has not submitted any formal response, the following information from the Complaint is found to be the factual background of this case.

The Complainant has been offering products under the trade mark IBM since 1924. It introduced its first large vacuum tube computer under the name IBM 710 in 1952, and since then has provided to its customers with computer and computer related goods and services throughout the world.

The Complainant owns and has owned trade mark registrations for IBM around the world for a broad range of goods and services, including, although not limited to, information technology related goods and services. For example, the Complainant owns United States Registration No. 640,606 for the trade mark IBM, registered on January 29, 1957.

The disputed domain name was registered on February 13, 2022, and the Complainant has provided evidence that the disputed domain name has been used in connection to a phishing email scheme.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its trade mark. The disputed domain name consists of the letters "ibm", followed by the term "global management", and the generic Top-Level Domain ("gTLD") ".com". The letters "ibm" are exactly the same as the IBM trade mark. The term "global management" does not obviate the confusing similarity between the disputed domain name and the IBM trade mark. Further, on the basis of well-established authority, the gTLD, in this case ".com", should be disregarded in assessing confusing similarity.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since 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 for a *bona fide* offering of goods or services. In addition, the Respondent has configured an email server on the disputed domain name. This indicates the intention of the Respondent to potentially use the disputed domain name for deceiving purposes.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. The Complainant's IBM trade mark is well-known around the world. It is beyond the realm of reasonable coincidence that the Respondent chose the letters "ibm" at the first part of the disputed domain name without the intention of invoking a misleading association with the Complainant. And, the Respondent has used the disputed domain name in connection with a phishing, or otherwise malicious or fraudulent, email scheme. This shows that the disputed domain name is being used in bad faith by the Respondent.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the

following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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 Panel finds that the Complainant has the right in the IBM trade mark.

The disputed domain name includes the Complainant's IBM trade mark. Such inclusion is by itself enough to consider the disputed domain name confusingly similar to the Complainant's IBM trade mark. The addition of the terms "global" and "management" in the disputed domain name do not prevent a finding of confusing similarity. Further, as well-established in prior UDRP decisions, the gTLD ".com" contained in the disputed domain name is typically irrelevant in the determination of the confusing similarity.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trade mark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

#### **B. Rights or Legitimate Interests**

There is no evidence at all that shows the Respondent is commonly known by the name "ibm" or "ibmglobalmanagement". The Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant's IBM trade mark. Moreover, no *bona fide* offering of goods or services, or legitimate noncommercial or fair use has been made of the disputed domain name; rather, the Complainant has provided evidence that the disputed domain name has been used to send phishing email communications.

According to prior UDRP decisions, it is sufficient that the Complainant shows *prima facie* that the Respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production to the Respondent. Since the Respondent did not reply to the Complainant's *prima facie* contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

#### **C. Registered and Used in Bad Faith**

The Complainant is a famous company providing computer and computer related goods and services throughout the world and its IBM trade mark is well known worldwide. Therefore, it is highly unlikely that the Respondent would not have known of the Complainant's right in the trade mark at the time of registration of the disputed domain name. Nothing in the disputed domain name bear any reasonable relevance to the Respondent. There can be found no reasonable possibility of fortuity in the Respondent's innocent registration of the disputed domain name.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, the Complainant submitted a copy of an email sent by the Respondent, whereby the Respondent purported to be a representative of the IBM Global Management team inquiring about potential investment possibilities,

apparently in an attempt to receive sensitive information, such as banking details, or undue payments intended for the Complainant. This email sufficiently shows the Respondent's use of the disputed domain name in bad faith.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

## **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 <ibmglobalmanagement.com> be transferred to the Complainant.

*/Masato Dogauchi/*

**Masato Dogauchi**

Sole Panelist

Date: June 16, 2022