

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Mark Young Case No. D2024-2094

1. The Parties

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

Respondent is Mark Young, United States.

2. The Domain Name and Registrar

The disputed domain name <ibm.college> is registered with Spaceship, Inc. (“Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (“Center”) on May 20, 2024. On May 20, 2024, the Center transmitted by email to Registrar a request for registrar verification in connection with the disputed domain name. On May 21, 2024, Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from that in the Complaint (e.g., the Complaint named “John Doe,” alleging that according to Whois records, which identified Privacy service provided by Withheld for Privacy ehf as the registrant, the registrant was unknown). The Center sent an email communication to Complainant on May 22, 2024, providing the registrant and contact information disclosed by Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on May 22, 2024, naming “Mark Young” as Respondent.

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 (“Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on May 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 20, 2024.

The Center appointed Debra J. Stanek as the sole panelist in this matter on July 2, 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 is a leading computer and software company that began operating as “International Business Machines” and using the mark IBM one hundred years ago, in 1924. Complainant owns numerous registrations for the IBM mark throughout the world, including United States Reg. No. 640,606 (registered January 29, 1957) for magnetic recording tape and related products and United States Reg. No. 4,181,289 (registered July 31, 2012) for software and a variety of other products and services.

Complainant owns and operates a website at the <ibm.com> domain name.

The disputed domain name was created on February 6, 2024. Both at the time the Complaint was filed and at the time of this decision, it does not lead to an active website.

According to the Complaint, Respondent has used the disputed domain name to impersonate Complainant in an email phishing scheme.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

In particular:

- The disputed domain name is made up of the letters “ibm”, the same as Complainant’s IBM mark, followed by the generic top level domain (“gTLD”) “.college”. While it is appropriate to disregard the gTLD for purposes of this proceeding, use of “.college” could reasonably suggest an association with Complainant, which has offerings directed to college students.
- Respondent is using Complainant’s mark to impersonate Complainant and conduct phishing activities. In support, Complainant provides copies of messages from third party security tools, one blocking access to Respondent’s “www.ibm.college” website as a “security threat” and the other indicating that 55 phishing attempts using the disputed domain name had been blocked. In addition, Complainant provides a copy of an email message, apparently sent from an email address using the disputed domain name, which requested the recipient’s electronic signature on behalf of Complainant.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

To prevail under the Policy a complainant must prove, as to the domain name at issue, that: (a) it is identical or confusingly similar to a mark in which the complainant has rights, (b) respondent has no rights or legitimate interests in respect to it, and (c) it has been registered and is being used in bad faith. Policy, paragraph 4(a). A respondent’s failure to respond does not automatically result in a finding for the complainant; the complainant continues to have the burden of establishing each element. See WIPO

Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.3. The Panel may, however, draw appropriate inferences from the default. See Rules, paragraph 14(b).

As an initial matter, the Panel determines that “Mark Young” is the appropriate Respondent. See [WIPO Overview 3.0](#), section 4.4.5 (in cases involving privacy service, Panel has discretion to determine appropriate respondent).

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical 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 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 Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant provided credible evidence that the website associated with the disputed domain name has been identified by third party tools as a security threat and has been used in email communications present itself as Complainant. The use of a domain name for such activity does not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Respondent has not rebutted 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 Panel finds the second element of the Policy has been established.

C. Registered and Used 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.

Under the circumstances of this case, including the distinctiveness and fame of Complainant’s mark, Complainant’s prior rights in its mark, the use of the disputed domain name in an email address apparently used as part of a phishing scheme or other deceptive activity, Respondent’s failure to respond, and

Respondent's having concealed his identity, Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds the third element of the Policy has been established.

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 <ibm.college> be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: July 16, 2024