

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation (IBM) v. Domain Privacy,

Domain Name Privacy Inc.

Case No. D2025-0891

### **1. The Parties**

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

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

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

The disputed domain name <ibmglobal.vip> is registered with Communigal Communications Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 4, 2025. On March 5, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name. The Center sent an email communication to the Complainant on March 7, 2025, 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 March 7, 2025.

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 March 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 3, 2025.

The Center appointed Haig Oghigian as the sole panelist in this matter on April 10, 2025. 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, International Business Machines Corporation (IBM), is an American corporation which traces its roots to the 1880s and has been a leading company 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 done much of this business under the abbreviated form of its name, IBM. The Complainant is a global company with offices in 170 countries and territories.

The Complainant owns numerous trademark registrations for IBM, such as but not limited to:

<b>Trademark</b>	<b>Country</b>	<b>Registration Number</b>	<b>Registration Date</b>
IBM	United States of America	4181289	July 31, 2012
IBM	United States of America	640606	January 29, 1957
IBM	Australia	1433753	December 21, 2010

The Complainant operates its website at <ibm.com> and others.

The disputed domain name <ibmglobal.vip> was registered by the Respondent on July 26, 2024, and it used to redirect to a webpage possibly containing malware.

The Respondent is Domain Privacy of Domain Name Privacy Inc., located in Cyprus.

#### **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 is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns numerous trademark registrations for IBM internationally, and has been operating under that name for over a century. The Complainant adds that their rights to and associations with these marks have been recognized by multiple panels in the past. The Complainant therefore submits that it has satisfied the requirement of holding rights in the mark IBM. The Complaint states that the relevant trademark, IBM is contained within the disputed domain name, though with the "global" added on the end. The Complainant submits that the IBM trademark is fully reproduced in the disputed domain name and as "global" is a descriptive or meaningless term and as prescribed by WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.8, the addition of this descriptive or meaningless term does not prevent a finding of confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant argues that as they have demonstrated rights to the mark contained within the disputed domain name, and have never licensed mark to the Respondent, or have ever licensed or otherwise given permission for the creation of the disputed domain name. The Complainant states that as the disputed domain name was, at the time when it was active, being used to divert users to a web page containing malware, the Respondent cannot have rights or legitimate interests in respect of the disputed domain name.

The disputed domain name was registered and used in bad faith.

The Complainant argues that as the registration of the disputed domain name by the Respondent was done at least 68 years after the Complainant's registration of the mark contained within the disputed domain name, and that given the prominence of the Complainant and their marks, the Respondent should have been aware of the Complainant and the rights owned by the Complainant. Additionally, the Complainant states that the fact that the disputed domain name reproduces the Complainant's mark, while having no relationship to that mark, encourages a finding of bad faith registration. The Complainant argues that for all of the above reasons, the Respondent has registered and is using the disputed domain name in bad faith, and it is implausible that there would be any good faith use demonstrated by the Respondent.

## **B. Respondent**

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

## **6. Discussion And Findings**

### **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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "global" may bear on assessment of the second and third elements, the Panel finds the addition of this term 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.

Panels have held that the use of a domain name for illegal activity, here claimed distributing malware, 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 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.

In the present case, the Panel notes that the Respondent acted in bad faith as they reproduced, without authorization, the Complainant's marks in order to divert Internet users to a website that attempted to infect Internet users' computers with malware, the Panel finds that the Respondent engaged in both bad faith registration and use of the disputed domain name. Furthermore, upon review of the contact information given by the Respondent, it appears that the Respondent registered the disputed domain name with the information of a privacy service, causing some confusion in seeking their true identity, which will likely remain unknown, further demonstrating bad faith. The Panel additionally accepts the evidence that the disputed domain name is associated with an IP address linked to multiple illegitimate and illegal activities, further highlighting the bad faith nature of the Respondent's registration of the disputed domain name.

Paragraph 4(b) of the Policy sets out a list of nonexhaustive 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, here claimed distributing malware, 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 <ibmglobal.vip> be transferred to the Complainant.

*/Haig Oghigian/*

**Haig Oghigian**

Sole Panelist

Date: April 24, 2025