

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. hani albaiti
Case No. D2024-3662

1. The Parties

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

The Respondent is hani albaiti, Saudi Arabia.

2. The Domain Name and Registrar

The disputed domain name <ibm-company.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 16, 2024, the Registrar transmitted by email to the Center its verification 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 September 17, 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 September 17, 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 September 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2024.

The Center appointed Dietrich Beier as the sole panelist in this matter on October 14, 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

The Complainant is the proprietor of numerous trademark registrations for IBM in over 100 countries, among them United States trademark registration no. 4,181,289 in International Classes 9, 16, 18, 20, 21, 22, 24, 25, 28, 35, and 41, registered on July 31, 2012, and being in effect.

The disputed domain name was registered on December 27, 2023.

The Complainant was ranked the 16th most valuable global brand in 2024, and the 17th most valuable global brand in 2023 by BrandZ.

The website under the disputed domain name is pointing to a pay-per-click parking page with advertisement links containing references to technology-related products and services, e.g., "Thinkpad Laptop," "Hp Home Office Laptop," and "Online College that Offers Free Laptop."

Respondent had registered the disputed domain name initially through a privacy shield service.

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.

The Complainant contends that the IBM trademark is a world-famous trademark. Tracing its roots to the 1880s, the Complainant is and has been a leading innovator 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.

Notably, the Complainant contends that the disputed domain name reproduces in its entirety the mark IBM as protected by the Complainant's trademarks, adding the element "company" which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks. The Complainant has not authorized the use of its trademarks in the disputed domain name or otherwise. Further, the Respondent has not been commonly known by the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant also contends that its trademarks are well known, resulting in the Respondent being well aware of the Complainant or its earlier rights in the IBM mark. Furthermore, the Respondent had been using the IBM trademark to generate illegitimate commercial gains. Moreover, the Complainant sent a cease-and-desist letter to the Respondent, to which the Respondent did not reply. Thus, according to the Complainant, the Respondent has registered and is using the disputed domain name in bad faith.

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 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.

The Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the trademark is reproduced within the disputed domain name. The further element "company" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.8. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the generic Top Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

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. This is in particular the case since the Complainant did not grant any permission or consent to the Respondent to use its trademark. In other words, the Complainant had not authorised the Respondent to make use of its mark. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "IBM-company" or that the Respondent is using the disputed domain name in connection with a bona fide offering of related goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Due to the intensive use of the Complainant's marks over the last at least 100 years, being well known, as assessed also by other WIPO panels, lastly in *International Business Machines Corporation (IBM) v. benhe yang, yan hao, Mahmoud Ech-cheikh, Deyuan Du (德元杜), Jizu Cao (纪祖曹), day song (日曲)*,

WIPO Case No. [D2024-1939](#), at the time of the registration of the disputed domain name, the Respondent must have been well aware of the Complainant and its trademarks when registering the disputed domain name.

The Respondent's failure to come forward with any explanation for the registration of the disputed domain name in a response and the use of a privacy service to conceal the Respondent's identity further support the finding that the Respondent targeted the Complainant.

Also the further circumstances of this case, inter alia the Respondent's website with advertising links containing references to technology-related products and services indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) 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 <ibm-company.com> be transferred to the Complainant.

/Dietrich Beier/

Dietrich Beier

Sole Panelist

Date: October 18, 2024