

## **ADMINISTRATIVE PANEL DECISION**

### **International Business Machines Corporation v. Mina Sargious Case No. D2024-4713**

#### **1. The Parties**

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

Respondent is Mina Sargious, United States.

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

The disputed domain name <ibm-computers.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 November 14, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (John Doe / Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on November 18, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on November 18, 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 Respondent of the Complaint, and the proceedings commenced on November 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 17, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on December 30, 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 multinational company, based in the United States. For decades prior to the registration of the disputed domain name, Complainant has offered computer and technology-related goods and services under the IBM mark. Complainant has several registered trademarks for its IBM mark. These include, among others, United States Registration Nos. 1243930 (registered June 28, 1983) and 1696454 (registered June 23, 1992).

The disputed domain name was registered on July 29, 2024. As of the filing of the Complaint, the disputed domain name resolved to a pay-per-click page with third party links related to Complainant's business. Respondent did not reply to multiple cease and desist letters sent from Complainant through the Registrar regarding Respondent's registration and use of the disputed domain name.

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

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

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it has established rights in its "world-famous trademark", which has significant value as indicated by the IBM mark's ranking of 18 in the 2022 Interbrand survey (19th in 2024), and by Complainant's position as number 49 in the Fortune 500 companies of 2022. Complainant contends that Respondent has merely added a hyphen with the term "computers", which consumers will likely associate with Complainant's well-known offerings in computers and technology. Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain name registration or use of the disputed domain name. Complainant contends that Respondent did not reply to multiple attempts by Complainant to contact Respondent, and demanding that Respondent cease and desist use of the disputed domain name. Complainant further contends that Respondent has acted in bad faith in resolving the disputed domain name to a pay-per-click page with "anonymization services" likely associated with fraudulent activity, presumably for Respondent's own commercial gain.

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

Respondent did not reply to 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. Complainant has shown rights in respect of

a trademark or service mark, IBM, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Although the addition of other terms (here, a hyphen and the word “computers”) may bear on assessment of the second and third elements, the Panel finds that the addition of such term/s does not prevent a finding of confusing similarity between the disputed domain name and Complainant’s mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### **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.

Complainant has established rights to the mark incorporated in the disputed domain name, and Respondent has not responded with any valid claim to use such mark associated with a term referring to Complainant’s business in the disputed domain name. The Panel finds that Complainant has provided sufficient evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

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

There are several ways that a complainant can demonstrate that a domain name was registered and is being used in bad faith. As noted in Section 4 of this Panel’s decision, as of the filing of the Complaint, the disputed domain name resolved to a pay-per-click page with links related to Complainant’s business.

A panel must examine “the totality of the circumstances” to determine if Respondent has registered and used the disputed domain name in bad faith. Respondent did not respond to Complainant’s allegations in this proceeding, nor to Complainant’s previous cease and desist letters. Complainant has established prior rights in the IBM mark, as well as significant renown therefore. Respondent appears to be trading on the goodwill of Complainant’s well-known trademark to attract Internet users, to Respondent’s website with pay-per-click links, presumably for Respondent’s own commercial gain. See *International Business Machines Corporation v. Dana Mitchell, IBM Computer Supply*, WIPO Case No. [D2019-0522](#); *International Business Machines Corporation v. Adam Stevenson, Global Domain Services*, WIPO Case No. [D2016-1695](#).

The Panel finds that Respondent has registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

## **7. Decision**

For all 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-computers.com> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Dated: January 13, 2025