

ADMINISTRATIVE PANEL DECISION

Kyndryl, Inc. v. Name Redacted
Case No. D2024-4916

1. The Parties

The Complainant is Kyndryl, Inc., United States of America (“United States”), represented by Demys Limited, United Kingdom.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <kyndrylholdings.com> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2024. On November 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 29, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 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 amended Complaint on December 10, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for

¹The Respondent appears to have used the name of a Complainant’s employee when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 December 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 6, 2025.

The Center appointed Nels T. Lippert as the sole panelist in this matter on January 14, 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 is a company incorporated in the United States and is an entity within the Complainant’s group which operates under the name “Kyndryl Holdings, Inc”. The Complainant designs, builds, manages, and modernizes complex, mission-critical information systems. The Complainant’s services include a wide range of technology infrastructure systems designed and managed for clients, such as cloud services, artificial intelligence, digital workplaces, hybrid IT environments and other emerging technology solutions.

The Complainant was IBM’s former Global Technology Services infrastructure division comprising more than a quarter of IBM’s employees as well as over 4,000 clients. The Complainant generated revenues of USD 17 billion in the fiscal year 2023. Currently, the Complainant is one of the largest IT service providers in the world. The Complainant employs more than 90,000 people and operates in over 60 countries.

The name of the Complainant, “Kyndryl”, was announced on April 12, 2021, and is derived from the words “kin” and “tendrill” to represent the symbol of growing collaboration to foster human progress. On November 4, 2021, the Complainant’s group company, “Kyndryl Holdings, Inc.”, began trading shares on the New York Stock Exchange.

The Complainant is the owner of several trademarks for KYNDRYL (“KYNDRYL trademark”), including:

- International Trademark Registration No. 1628208, registered on June 14, 2021;
- Benelux Trademark Registration No. 1453872, registered on November 16, 2021; and
- Mauritius Trademark Registration No. 30047/2021, registered on March 01, 2021.

The Complainant operates an official website with the domain name <kyndryl.com>.

The disputed domain name was created on October 28, 2024, and is configured to redirect to the Complainant’s main website “www.kyndryl.com”. The Respondent sent emails associated with the disputed domain name, impersonating the Complainant’s Global Chief Technology Officer, to the Complainant’s business partner.

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 name “Kyndryl” is fanciful and derived from the words “kin” and “tendrill”. Further, the oldest of its KYNDRYL trademark registration predates the registration of the disputed

domain name by more than three years. The disputed domain name incorporates the Complainant's KYNDRYL trademark in its entirety, with the addition of the word "holdings". The Complainant notes that the Complainant's group operates under the name of "Kyndryl Holdings, Inc.", and that the addition of the word "holdings" in the disputed domain name enhances confusion as it falsely implies that the disputed domain name is the official domain name for the Complainant's group. The Complainant contends that the generic Top-Level Domain ("gTLD") ".com" is required only for technical reasons and, as is common in dispute proceedings, can be ignored for the purposes of comparison of the disputed domain name to the KYNDRYL trademark.

The Complainant alleges that the Respondent is not commonly known as KYNDRYL or KYNDRYL HOLDINGS and is not licensed or otherwise permitted by the Complainant to use its name or mark in the disputed domain name.

The Complainant contends that the disputed domain name is used by the Respondent to send phishing emails which impersonate one of the Complainant's employees. As such, the Complainant asserts that the Respondent is not using the disputed domain name in connection with the bona fide offering of goods or services. Furthermore, the Complainant asserts that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the Respondent has registered and used the disputed domain name in bad faith because it is using the disputed domain name to send phishing emails impersonating one of the Complainant's employees and is redirecting the disputed domain name to the Complainant's official website in furtherance of that illegal activity. Finally, the Complainant alleges that the Respondent is impersonating the Complainant's Global Chief Technology Officer by registering the disputed domain name using that person's contact information and, therefore, the Respondent's contact information is false or stolen.

B. Respondent

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

6. Discussion and Finding

As noted above, the Respondent did not respond to the Complainant's allegations. Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint. The Panel does not find any exceptional circumstance in this case.

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

(ii) The respondent has no rights or legitimate interests in respect of the domain name; and

(iii) The domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. By defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence

set forth in Paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name.

Moreover, the Respondent failed to provide any information or reasoning that might rebut the Complainant's arguments that the Respondent has acted in bad faith.

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.

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, "holdings", may bear on assessment of the second and third elements, the Panel finds the addition of such 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.

Furthermore, it is well established that the applicable Top-Level Domain ("TLD") in a domain name 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.

Panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this case: phishing, impersonation/passing off, or other types of fraud 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 registered and used the disputed domain name in an apparent attempt to attract Internet users for the purposes of illegal activity.

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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: phishing, impersonation/passing off, or other types of fraud 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.

In addition, the panel notes that the disputed domain name was registered using false contact information as further evidence of bad faith. [WIPO Overview 3.0](#), section 3.6.

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 <kyndrylholdings.com> be transferred to the Complainant.

/Nels T. Lippert/

Nels T. Lippert

Sole Panelist

Date: January 26, 2025