

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Rongjin Zheng, Sami Finance
Case No. D2024-5328

1. The Parties

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

The Respondent is Rongjin Zheng, Sami Finance, China.

2. The Domain Name and Registrar

The disputed domain name <ibmtransaction.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 December 27, 2024. On December 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 31, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 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 January 3, 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 January 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 30, 2025.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on February 5, 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 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. The Complainant was ranked the 16th most valuable global brand by BrandZ and the 19th best global brand by Interbrand in 2024. The trademark IBM was valued by BrandZ as worth over USD 98 billion in 2024. Incorporated on June 16, 1911, as an amalgamation of three previously existing companies, the Complainant officially became “International Business Machines” on February 14, 1924. The Complainant has been offering products under the trademark IBM ever since. In the early days, these products included office and research equipment such as punch machines, calculating machines, clocks, and scales. IBM introduced its first large vacuum tube computer under the name IBM 710 in 1952, and since then has continuously used the trademark IBM in association with computers and computer hardware, software, and accessories.

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

- United States Trademark Registration No. 4181289, registered on July 31, 2012,
- United States Trademark Registration No. 3002164, registered on September 27, 2005; and
- United States Trademark Registration No. 1696454, registered on June 23, 1992.

The Complainant is also the owner of domain names including the IBM trademark, such as the domain name <ibm.com>, registered on March 19, 1986.

The disputed domain name was registered on June 12, 2024. The Complainant has shown evidence that (i) on June 30, 2024, the disputed domain name was connected to a pay-per-click (“PPC”) parking page with advertisement links containing references to technology related products and services, e.g. “Bank Accounts”, “Money Transfer”, and “Bank Account”, taking into consideration that the Complainant offers a transaction software, as well as (ii) on November 19, 2024, the disputed domain name displayed a webpage that appeared untrustworthy and advertised opportunities for users to generate income. At a later date and at the time of decision, the disputed domain name resolved to a parked webpage with a notice that it is under construction in Chinese.

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.

On the first element of the Policy, the Complainant claims that the disputed domain name is identical or confusingly similar to the IBM trademark. The disputed domain name consists of the letters “ibm” followed by the word “transaction” and the generic Top-Level-Domain (“gTLD”) “.com.” The letters “ibm” contained in the disputed domain name are exactly the same as the “IBM” trademark. The only difference is the additional term “transaction.”

Moreover, a basic Google search for “ibm transaction” yields links relating to Complainant’s services, which would likely create consumer confusion regarding Complainant’s relationship with the Respondent. Thus, the disputed domain name can falsely appear to internet users to be associated with the Complainant. This

minor variation does not obviate the confusing similarity between the disputed domain name and the IBM trademark. The gTLD ".com" in the disputed domain name should be disregarded while conducting the similarity test comparing the disputed domain name to the IBM trademark and therefore cannot obviate the confusing similarity between the disputed domain name and the IBM trademark.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never licensed, contracted, or otherwise permitted anyone to apply to register the disputed domain name. Furthermore, there is no evidence that Respondent is using the disputed domain name incorporating the IBM trademark for a bona fide offering of goods or services, nor is there any evidence of either the Respondent being known by the disputed domain name or having used the disputed domain name in a manner consistent with fair use. On the contrary, the Respondent has been misusing the IBM trademark in the disputed domain name in illegitimate ways, which have been documented as follows: From June 16, 2024, to November 19, 2024, Respondent was actively using the IBM trademark in the disputed domain name to derive illegitimate commercial gains. Specifically, Respondent pointed the disputed domain name to a PPP parking page with advertisement links containing references to technology related products and services, e.g. "Bank Accounts", "Money Transfer", and "Bank Account". The Complainant currently offers transaction software deployed on IBM Z that ensures "transactions are processed reliably, securely and with high performance, which is essential for industries that rely heavily on mainframe systems for their mission-critical operations."

From November 19, 2024, to December 9, 2024, the disputed domain name displayed a telegram webpage. Since, December 10, 2024, the disputed domain name has been displaying a "this website is under construction page" in Chinese. Such unauthorized use of the IBM trademark is likely to cause consumers into erroneously believing that the Complainant is somehow affiliated with the Respondent or endorses its activities, while in fact no such relationship exists.

Therefore, the Complainant can affirm with good faith that: (i) there is no evidence of any Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with any bona fide offering of goods or services; (ii) the Respondent has not been commonly known by the domain name; and (iii) the Respondent is not making a legitimate non-commercial or fair use of the domain name.

On the third element of the Policy, the Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith. The only difference between the disputed domain name and the IBM trademark is the mere additional term "transaction." Additionally, the Complainant offers transaction software. Therefore, the Respondent set out to target the Complainant and to deceive with an intention to divert internet to a PPP page with links for technology-related products and services. The Respondent was well aware of the IBM trademark at the time the Respondent registered the disputed domain name on June 16, 2024. The IBM trademark is well-known around the world. The Respondent had been using the IBM trademark in the disputed domain name to generate illegitimate commercial gains. Specifically, the Respondent intentionally attempted to create a likelihood of confusion by pointing the disputed domain name to a PPP parking page with advertisement links containing references to technology-related products and services, e.g. "Bank Accounts", "Money Transfer", and "Bank Account". The Respondent's misuse of the disputed domain name is clear evidence of bad faith because generating more traffic will result in revenue for the Respondent. It also creates a likelihood of confusion as to the relationship between the Complainant and the Respondent, as well as the source, sponsorship, or endorsement of the Respondent's websites and/or goods and services. Further, Internet search engines yield results for the Complainant and its products/services when using "IBM" and "IBM Transaction" as search terms. As such, the Respondent either knew or should have known of the IBM trademark when registering the disputed domain name or has exercised "he kind of wilful blindness that numerous panels have held support a finding of bad faith." Additionally, the Respondent has registered the disputed domain name through a privacy shield service. Previous panels have considered that concealing identity and contact information may point to bad faith in itself. Further, the registration of a domain name that is confusingly similar to a trademark by an entity that has no relationship to that mark may be sufficient evidence of opportunistic bad faith. In the present case, the disputed domain name is confusingly similar to the IBM trademark, and the Respondent has no

relationship to the Complainant or the IBM trademark. Therefore, the evidence further suggests opportunistic bad faith and shows the Respondent has registered the disputed domain name in bad faith. Moreover, the Complainant sent a cease-and-desist letter to the Respondent through the Registrar at the email address listed in the Whois records on June 30, 2024, asking the Respondent to disable and transfer the disputed domain name to the Respondent. The Respondent did not reply to the Complainant's letter from June 30, 2024. Subsequently, the Complainant sent another cease-and-desist letter to the Respondent through the Registrar on December 10, 2024. For all the foregoing 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

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used 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 3.0](#), section 1.7.

While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms whether descriptive, geographical, pejorative, meaningless, or otherwise would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements. [WIPO Overview 3.0](#), section 1.8.

The applicable Top-Level-Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") 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 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 IBM trademark is reproduced within the disputed domain name and the Panel finds the mark is recognizable within the disputed domain name. The disputed domain name differs from the IBM trademark by the addition of the term “transaction”, which does not prevent a finding of confusing similarity.

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.

The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the IBM trademark. The Panel finds on the record that there are no indications that the Respondent is commonly known by the disputed domain name or otherwise has any rights to or legitimate interests in the disputed domain name. Further, there are no evident preparations for the use of the disputed domain name for a *bona fide* offering of goods or services. Rather, the Complainant has shown evidence that the disputed domain name has been connected to a PPC parking page with advertisement links containing references to technology related products and services, e.g. “Bank Accounts”, “Money Transfer”, and “Bank Account”, which reflects an intent to capitalize on the Complainant’s reputation in such fields, as well as, at a later date, the disputed domain name has displayed a webpage that appears untrustworthy and advertises opportunities for users to generate income.

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.

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.

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.

The Panel notes that the IBM trademark was registered before the disputed domain name. Further, previous Panels have held that the IBM trademark has a strong reputation and is widely known throughout the world. See *International Business Machines Corporation v. Sadaqat Khan*, WIPO Case No. [D2018-2476](#).

The Complainant has shown evidence that the disputed domain name has been connected to a PPC parking page with advertisement links containing references to technology related products and services, and then at a later date, the disputed domain name displayed a webpage that appeared untrustworthy and advertised opportunities for users to generate income. The Panel further notes the distinctiveness and reputation of the well-known IBM trademark, the composition of the disputed domain name, including the entire IBM trademark and the term "transaction" as a reference to the Complainant's field of activity, the fact that the Respondent registered the disputed domain name through a privacy shield service as well as the Respondent's failure to submit a response to the Complainant's cease-and-desist-letters and Complaint. By using the disputed domain name, the Respondent has intentionally attempted to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the IBM trademark.

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 <ibmtransaction.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: February 19, 2025