

ADMINISTRATIVE PANEL DECISION

Kyndryl, Inc. v. Eswara N
Case No. D2025-0848

1. The Parties

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

The Respondent is Eswara N, India.

2. The Domain Name and Registrar

The disputed domain name <kyndryl.art> 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 February 28, 2025. On March 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2025, 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 (Registration Private Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 4, 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 amended Complaint on March 7, 2025.

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 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 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 30, 2025. The Response was filed with the Center on March 10, 2025. The Respondent sent additional email communications to the Center on March 7, 2025, March 9, 2025, March 10, 2025, and March 11, 2025.

The Center appointed Mehmet Polat Kalafatoglu as the sole panelist in this matter on March 26, 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, Kyndryl, Inc., is a company incorporated in the US and forms part of the group that operates under the name Kyndryl Holdings, Inc. The Complainant designs, builds, manages, and modernizes complex, mission-critical information systems. The information systems designed and managed by the Complainant include cloud services, artificial intelligence, digital workplaces, hybrid IP environments, and other emerging technology solutions. The Complainant states that it was IBM's former Global Technology Services infrastructure services business. It also states that it generated revenues of USD 17 billion in the fiscal year 2023 and it is one of the largest IT service providers in the world, employing more than 90,000 people and operating in more than 60 countries.

The Complainant submits that its incorporation name, Kyndryl, was announced on April 12, 2021, and it promotes its services on its official website located at the domain name <kyndryl.com>.

The Complainant asserts that it owns a large portfolio of registered trademarks for the term "Kyndryl" in different jurisdictions, including the International Trademark Registration KYNDRYL No. 1628208, registered on June 14, 2021, designating several countries (including India, where the Respondent is located) for goods and services in classes 9, 35, 37, 38, 41, and 42. The Complainant also owns another registered trademark in India: the KYNDRYL trademark with application number 5231195 and application date June 14, 2021 duly registered for goods and services in classes 9 and 42.

The disputed domain name was registered on February 5, 2025. At the time of filing of the Complaint, the disputed domain name was resolving to a webpage which displays, among others, the following texts: "KYNDRYL" as the headline, "Art that Inspires and Connects", "Contact Us", "Copyright © 2025 Kyndryl – All Rights Reserved.". The website also includes a contact form. At the time of this Decision, the Panel observes that the texts have been slightly altered. The headline now appears as "KYNDRYL.ART" and the copyright notice also refers to "Kyndryl.ART".

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 states that its company name, Kyndryl, was announced on April 12, 2021, and it is derived from the words "kin" and "tendrill" to represent the symbol of growing collaboration to foster human progress. The Complainant also notes that it has successfully defended its registered rights under the UDRP and provides a list of previous UDRP decisions in its favor. Finally, the Complainant asserts that the disputed domain name is listed for sale on a domain name marketplace for USD 1,105. The Complainant's contentions regarding the three elements under the Policy can be summarized as follows.

Firstly, the Complainant affirms that its KYNDRYL trademark is highly distinctive, fanciful, and derived from the words "kin" and "tendrill". The disputed domain name is identical to its KYNDRYL trademark.

Secondly, the Complainant contends that the Respondent does not have any right or legitimate interests in the disputed domain name. In this regard, the Complainant, inter alia, claims that the Respondent is not commonly known by the disputed domain name, the Respondent is not a licensee of the Complainant and

has not received any authorization to use the KYNDRYL trademark in any manner, there is no evidence that the Respondent has ever traded legitimately under the business name Kyndryl. The Complainant also submits that the disputed domain name carries a high risk of implied affiliation, and the Respondent cannot obtain any rights or legitimate interests through its passive holding of the disputed domain name. Lastly, the Complainant highlights the fact that the disputed domain name is listed for sale and considering that the disputed domain name is identical to its well-known trademark, the offering for sale cannot confer a legitimate interest.

Thirdly, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. In this regard, the Complainant, inter alia, claims that the disputed domain name is in and of itself confusing to Internet users. The fact that the disputed domain name is listed for sale with an asking price of USD 1,105 is strong evidence to prove the Respondent's bad faith under the Policy. The Complainant contends that the Respondent has registered or acquired the disputed domain name with full knowledge of the Complainant's trademark rights primarily for the purpose of selling it to the Complainant or a competitor. The Complainant also claims that the disputed domain name is passively held, and under the present circumstances, this constitutes bad faith. Lastly, the Complainant contends that the Respondent has provided incomplete or false contact information, which indicates bad faith.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. The Respondent strongly contests the Complainant's contentions and asserts that the disputed domain was registered and is being used in good faith and with a legitimate purpose unrelated to the Complainant's trademark. The Respondent also affirms that he never attempted to mislead, profit from, or disrupt the Complainant's business. The Respondent's contentions, which are relevant to the Panel's assessment in this case, can be summarized as follows.

First, in order to demonstrate his legitimate interests in the disputed domain name, the Respondent asserts that the disputed domain name was registered with the genuine artistic intent of creating a personal wildlife photography portfolio. The disputed domain name was chosen to represent the Respondent's artistic vision and was never intended to infringe upon or benefit from the Complainant's brand. The landing page initially displayed was an auto-generated default page. Now, the website at the disputed domain name prominently displays a nature photograph captured by the Respondent and the phrase "Art that inspires and connects" to reflect the Respondent's dedication to wildlife photography and artistic expression. The choice of the ".art" TLD directly aligns with this intended purpose. The website had no reference to the Complainant or its services and did not attempt to mislead visitors. The Respondent also claims that he has an active presence in wildlife photography, especially on social media. This further demonstrates that the registration of the disputed domain name was driven by genuine artistic intent.

Furthermore, the Respondent claims that there is no bad faith registration or use of the disputed domain name. The Respondent states that he never contacted the Complainant or its competitors to sell the disputed domain name. The Respondent declares that he briefly listed the disputed domain name for sale on third-party platforms. However, he later removed it in order to use the disputed domain name for his photography project. A mere listing does not equate to bad faith. The Respondent also asserts that the Complainant does not appear to have trademark rights in the field of wildlife, photography, or artistic works. In addition, the mere creation of a coined term does not give the Complainant absolute or global rights over every usage of the word in all industries, and the ".art" TLD is unrelated to the Complainant's core business. According to the Respondent, this reinforces that the registration was not intended to target the Complainant. In addition, the Respondent affirms that the name "Kyndryl" existed in other contexts and that it had been used independently in different settings before the Complainant's trademark use. The Respondent submits that the Complainant neglected to register the disputed domain name when it was freely available to the public. The Respondent opposes the contention that the disputed domain name is passively held. It is planned for development for his claimed artistic purposes, and the landing page reflects this purpose. In this respect, the Respondent also claims that some domain names owned by the Complainant are also passively held.

The Respondent also declares that he registered the disputed domain name without knowledge of the Complainant or its trademark rights. The disputed domain name “was chosen purely for its artistic significance”. Moreover, the Respondent contends that the disputed domain name is not identical in context; since it is used in a completely different field from the Complainant’s business, there is no likelihood of confusion between his website’s artistic purpose and the Complainant’s operations. The Respondent also asserts that the privacy service is a standard security measure used by domain owners, and his contact details were accurate and compliant.

Lastly, the Respondent contends that the disputed domain name was first registered in 2021 but expired in 2022. The disputed domain name remained unregistered until the Respondent registered it in 2025. According to the Respondent, the Complainant could register the disputed domain name after its expiration, but it chose not to. In the Respondent’s view, “this suggests that they did not consider the domain critical or exclusive at the time”.

6. Discussion and Findings

6.1. Procedural Issue: The Admissibility of the Respondent’s Multiple Submissions

The Panel notes that the Center formally notified the Respondent of the Complaint on March 10, 2025, and the due date for Response was March 30, 2025. However, on March 7, 2025, and before the formal commencement of the proceedings, the Respondent filed a formal submission, which can be qualified as an initial response. On March 10, 2025, the Respondent submitted his Response and confirmed that this submission represents his complete and final Response in the present proceedings. In addition, the Center received a supplemental communication from the Respondent on March 11, 2025. Pursuant to paragraph 10(d) of the Rules, the Panel has discretionary authority to determine “the admissibility, relevance, materiality, and weight of the evidence” submitted by the Parties.

The Panel considers that these submissions are brief, especially, they are all submitted before the due date for Response. Therefore, their review would not cause any delay to the proceedings. The Panel notes that the Respondent is self-represented in these proceedings. Considering also the procedural fairness, the Panel has exceptionally taken all these submissions into account as part of the record.

6.2. Substantial Issues

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

The Top-Level Domain (“TLD”) “.art” is viewed as a standard registration requirement and is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

Accordingly, 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 Complainant has sufficiently established that the Respondent is not affiliated with the Complainant nor authorized by the Complainant to use its KYNDRYL trademark in any manner. There is no indication in the record that the Respondent is commonly known by the disputed domain name or has a business name corresponding to the disputed domain name.

The Panel accepts that the KYNDRYL trademark is highly distinctive and composed of a coined term. The disputed domain name, which is identical to this trademark, creates, by itself, a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Moreover, the Panel finds that the Respondent has failed to provide any persuasive explanation for its choice of the disputed domain name that is identical to the highly distinctive KYNDRYL trademark. In the Panel’s view, the mere explanations provided by the Respondent, such as this choice was motivated by an artistic vision, by his dedication to wildlife photography and artistic expression, or the disputed domain name “was chosen purely for its artistic significance” are simply not convincing.

In addition, the Panel considers the content of the website located at the disputed domain name. As explained above, at the time of filing the Complaint, the disputed domain name resolved to a webpage displaying clearly the KYNDRYL trademark and a copyright notice referring to “Kyndryl”. The website does not contain any contact information or other information regarding the Respondent’s identification. The Panel finds that this content does not disclose the lack of relationship between the Parties but rather falsely implies a connection with the KYNDRYL trademark or the Complainant. In addition, the Panel determines that the Respondent was also aware of this implied connection because following the notification of the Complaint, the Respondent insufficiently tried to dissolve this situation by changing the heading of the website and the copyright notice from KYNDRYL to “Kyndryl.ART”. Although the TLD “.art” is not directly linked with the Complainant’s field of activity, the Panel finds that the choice of this TLD does not eliminate this risk of implied affiliation in the circumstances of the case. An average Internet user would be easily confused by the disputed domain name and the website attached to it.

The Panel notes the Respondent’s contention that the disputed domain name was registered with a genuine artistic intent, and it is being used and will be used to create a personal wildlife photography portfolio. The Panel agrees with the Respondent that this is not a passive holding of the disputed domain name. The Panel also agrees with the Respondent that registering a coined term as a trademark does not, in principle and automatically, give its owners absolute rights in every field of activity. However, the Panel considers the available record and finds that the mere display of a background photograph with a short text, which may be connected to art, cannot sufficiently establish the Respondent’s assertions and his claimed genuine artistic intent. In addition, the Panel also considers that despite having adequate opportunity, the Respondent did not submit any other evidence to support his demonstrable plans for such use of the disputed domain name. Therefore, the Panel finds it very likely that the Respondent has merely raised this argument to create an

appearance of rights or legitimate interests in the disputed domain name. Without any other supporting evidence, the Panel finds that these contentions do not successfully demonstrate the Respondent's rights and legitimate interests under the Policy.

In addition, the Panel considers the Complainant's contention that the disputed domain name is listed for sale for USD 1,105, an amount in excess of reasonable out-of-pocket costs for registering the disputed domain name (absent any evidence from the Respondent to the contrary). In response, the Respondent simply states that he never contacted the Complainant or its competitors with an attempt to sell the disputed domain name. Nevertheless, the Respondent admits that the disputed domain name was listed for sale on third-party platforms, at least for a short period of time.

Moreover, the Panel rejects the Respondent's contention based on the fact that the disputed domain name was available for the Complainant to register, but the latter chose not to. The fact that the Complainant had not registered the disputed domain name does not automatically confer rights or legitimate interests to the Respondent under the Policy. Lastly, the Panel considers the Respondent's contention that the name "Kyndryl" existed prior to the Complainant's trademark usage in other contexts, namely, an online video game user created an in-game character named "Kyndryl" as early as 2010. According to the Respondent, this demonstrates that the term "Kyndryl" is not an exclusive creation of the Complainant and has been used independently in different settings. In this regard, the Panel notes the following: first, this third-party usage of the term "Kyndryl" is in a different context than registering a domain name identical with a trademark; second, this usage is made by a third-party and not by the Respondent; third, and more importantly, a single example of this kind of third-party usage is absolutely insufficient to weaken the highly distinctive KYNDRYL trademark, which was already in existence at the time when the Respondent registered the disputed domain name. Therefore, the Panel finds that the mere existence of this kind of third-party usage does not grant the Respondent rights or legitimate interests in the disputed domain name.

Considering the overall facts and circumstances of this case, the Panel finds that the Respondent was unable to sufficiently establish that the disputed domain name was not registered to benefit from the reputation of the KYNDRYL trademark. On the balance of probabilities, the Panel finds that the Respondent does not use the disputed domain name in connection with a bona fide offering of goods or services, and the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. Therefore, the Panel finds that the Respondent has failed to rebut the Complainant's prima facie case.

Accordingly, 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.

[WIPO Overview 3.0](#), section 3.1 generally states that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark.

In the present case, the Panel notes that the KYNDRYL trademark, which is also registered in India (where the Respondent is located), predates the date of the disputed domain name's registration. The Panel also notes that the KYNDRYL trademark is inherently distinctive and comprised of a coined term. In addition, a simple online search for KYNDRYL would have revealed the existence of the Complainant and its KYNDRYL trademark. Considering also the conclusions reached in the previous section, the Panel finds it likely that the Respondent was aware of the Complainant's prior trademark rights at the time of registration and registered an identical domain name to target or exploit the Complainant's KYNDRYL trademark. In the Panel's view, this behavior constitutes bad faith registration and use under the UDRP. See also, [WIPO Overview 3.0](#), sections 3.2.1, 3.2.2, and 3.2.3.

In addition, the Panel considers that the disputed domain name, at least for a short period of time as admitted by the Respondent, was listed for sale. Considering the overall circumstances of the case, the Panel finds that the Respondent, by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's trademark. See also, [WIPO Overview 3.0](#), section 3.1.4.

Considering the above, the Panel decides that the disputed domain name was registered and is being used in bad faith. Accordingly, 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 <kyndryl.art> be transferred to the Complainant.

/Mehmet Polat Kalafatoglu/

Mehmet Polat Kalafatoglu

Sole Panelist

Date: April 9, 2025