

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation (IBM) v. Cody Gayston  
Case No. D2025-0982

### **1. The Parties**

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

Respondent is Cody Gayston, United States.

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

The disputed domain name <ibmbot.pro> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2025. On March 11, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 11, 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 (John Doe / REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on March 12, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 13, 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 Respondent of the Complaint, and the proceedings commenced on March 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 7, 2025.

The Center appointed Elizabeth Ann Morgan as the sole panelist in this matter on April 16, 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**

Incorporated on June 16, 1911, as an amalgamation of three previously existing companies, Complainant officially became International Business Machines on February 14, 1924. 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. Complainant 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.

Complainant owns and has owned trademark registrations for IBM in 131 countries all around the world for several decades, and for a broad range of goods and services, including, although not limited to, information technology related goods and services. More particularly, Complainant owns the following trademarks in the United States:

- United States trademark registration no. 3,002,164 in International Class 9, registered on September 27, 2005;
- United States trademark registration no. 1,696,454 in International Class 36, registered on June 23, 1992; and
- United States trademark registration no. 1,058,803 in International Classes 1, 9, 16, 37, 41, and 42, registered on February 15, 1977.

The IBM trademark is a world-famous trademark. Tracing its roots to the 1880s, Complainant is and has been one of the leading innovators 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.

In 2024, Complainant was ranked the 16th most valuable global brand by BrandZ. In 2023, Complainant was ranked the 17th most valuable global brand by BrandZ and ranked the 18th best global brand by Interbrand. Further, in 2022, Complainant was ranked the 18th most valuable global brand by BrandZ, the 18th best global brand by Interbrand, the 49th largest company on the Fortune U.S. 500 list, and the 168th largest company on the Fortune Global 500 list.

Complainant has devoted, and continues to devote, substantial resources toward maintaining and building these assets. In addition to its expenditures on product development, Complainant spent more than USD 6 billion on advanced research in 2023 and spent more than USD 6 billion on advanced research in 2022. The net result of these investments is manifest — Complainant’s trademark is synonymous with innovation and high quality in the field of information technology. Complainant spends over USD 1 billion annually marketing its goods and services globally, using the IBM trademark, and has undertaken extensive efforts to protect its name and enforce the IBM trademark. Complainant exerts careful control over use of the IBM trademark and imposes strict quality control measures over goods and services offered in connection with the trademark. Complainant further protects its brand and the IBM trademark by diligently pursuing infringers of the IBM trademark.

The Disputed Domain Name was registered on July 7, 2024, and resolves to a pay-per-click parking page with advertisement links containing references to technology-related products and services.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that within the meaning of paragraph 4(a) of the Policy, the Disputed Domain Name is identical or confusingly similar to Complainant's registered trademarks. The Disputed Domain Name directly references Complainant and purports to associate the Complainant with pay-per-click links displayed on the webpage of the Disputed Domain Name. Hence, a presumption of bad faith against Respondent must be found.

Particularly, Complainant contends the following:

The Disputed Domain Name consists of the letters "ibm" (not case sensitive), the word "bot" and the generic Top-Level Domain ("gTLD") ".pro". The letters "ibm" contained in the domain name are identical to the IBM trademark. The only difference is the addition of the word "bot" and the addition of the gTLD ".pro". The term "bot" is commonly referred to as an automated software application that can conduct tasks on behalf of users, which aligns with the goods and services provided by Complainant. This minor variation does not obviate the confusing similarity between the Disputed Domain Name and the IBM trademark. Complainant currently offers Internet bot services to consumers, such as IBM Watsonx assistant. Thus, the Disputed Domain Name directly references Complainant and purports to associate Complainant with pay-per-click links displayed on the web page of the Disputed Domain Name.

Respondent was aware of Complainant's trademarks at the time Respondent registered the Disputed Domain Name on July 7, 2024. Respondent has been misusing the IBM trademark in the Disputed Domain Name in illegitimate ways, which have been documented as follows:

As of July 7, 2024, Respondent has been actively using the IBM trademark in the Disputed Domain Name to derive illegitimate commercial gains. Specifically, Respondent has attempted to create a likelihood of confusion by pointing the Disputed Domain Name to a pay-per-click parking page with advertisement links containing references to technology-related products and services, e.g., "Endpoint Detection Software", "Order Laptops", "Solar Winds System Management", "Precision Laptops", etc. Further, the specific links have changed over time, indicating continued intent to profit off Complainant's mark and use of the Disputed Domain Name.

### **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 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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable 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 “bot”, 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.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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.

Further, the Panel notes that the nature of the Disputed Domain Name, incorporating the IBM trademark and the addition of the word “bot”, carries a risk of implied affiliation, as the term “bot” is commonly referred to as an automated software application that can conduct tasks on behalf of users, which aligns with the goods and services provided by Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant’s mark by pointing the Disputed Domain Name to a pay-per-click parking page with advertisement links containing references to technology-related products and services. It is well established that where a domain name is used to generate revenue in respect of “click through” traffic, and that traffic has been attracted because of the association with the complainant’s mark, such registration and use amounts to bad faith under paragraph 4(b)(iv) of the Policy.

The Panel finds that 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 <ibmbot.pro> be transferred to Complainant.

*/Elizabeth Ann Morgan/*

**Elizabeth Ann Morgan**

Sole Panelist

Date: April 30, 2025