

## **ADMINISTRATIVE PANEL DECISION**

Kyndryl, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico  
Case No. D2025-1302

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <kyndrylsharepoint.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 March 31, 2025. On March 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 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 April 1, 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 April 1, 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 April 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 25, 2025.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on May 2, 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 rendering IT services and employing more than 90,000 people in 60 countries, having generated revenues of USD 17 billion in the fiscal year 2023.

On November 4, 2021, the Complainant's group company, Kyndryl Holdings, Inc., began trading shares on the New York Stock Exchange.

The Complainant operates <kyndryl.com> as its official website (Annex 05 to the Complaint), as well as the Complainant makes use of Microsoft's "SharePoint" file management service, for which it has been assigned a custom subdomain <kyndryl.sharepoint.com> (Annex 06 to the Complaint). The Complainant makes use of Microsoft's "SharePoint" file management service, for which they have been assigned a custom subdomain at the URL "kyndryl.sharepoint.com". [Annex 06, screenshots, Complainant's SharePoint login & information on SharePoint].

The Complainant is the owner of several trademark registrations for KYNDRYL (Annex 10 to the Complaint), amongst which:

- International trademark registration No. 1628208 for the word mark KYNDRYL, registered on June 14, 2021, in classes 9, 35, 37, 38, 41, and 42; and
- France trademark registration No. 4754262 for the word mark KYNDRYL, registered on August 6, 2021, in classes 9, 35, 37, 38, 41, and 42.

The disputed domain name was registered on June 5, 2024, and has active mail exchange servers associated with it. At the time of filing the Complaint, the disputed domain named dynamically resolved to various websites including those apparently associated with distribution of malware (Annex 07 to the Complaint). Presently, the disputed domain name resolves to a website spreading malware.

#### **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 asserts to be IBM's former Global Technology Services infrastructure services business comprising more than a quarter of IBM's employees as well as over 4,000 clients. 75 percent of Fortune 100 companies are the Complainant's clients. The Complainant further asserts to be one of the largest IT service providers in the world, designing, building, managing and modernizing complex, mission-critical information systems.

According to the Complainant, the name "Kyndryl" and mark 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.

The Complainant submits that the disputed domain name reproduces entirely the Complainant's KYNDRYL fanciful and highly distinctive trademark in combination with the term "sharepoint" which is descriptive of a well-known product made by Microsoft, and which is incapable of adding any distinctiveness thereto.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- i. the Respondent has not been commonly known by the disputed domain name and has no prior use;
- ii. the Respondent is not a licensee of the Complainant and has not received any permission, consent or acquiescence from the Complainant to use its name or marks in association with the registration of the disputed domain name or, indeed, any domain name, service or product;
- iii. the Complainant has found no evidence that the Respondent owns any trademarks incorporating the term "Kyndryl";
- iv. the Complainant has found no evidence that the Respondent has ever traded legitimately under the business names "Kyndryl" or "Kyndryl SharePoint";
- v. the Complainant contends that given the confusing similarity of the disputed domain name to its name and mark, there is no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interest upon the Respondent; the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services given that the disputed domain name at times resolves to a variety of unrelated third-party websites apparently selected at random that mislead Internet users into downloading software which the Complainant reasonably believes to be malware, and, at other times resolves to an unrelated third-party shop.

Lastly, the Complainant submits that the disputed domain name which entirely incorporates the Complainant's highly distinctive name and mark in its entirety, was registered and is being used in bad faith and with the fraudulent intent to harm Internet users, and potentially in connection with fraudulent emails given the active mail exchange servers associated with it. In addition to that, the Complainant indicates that the disputed domain name is listed for sale with the asking price of USD 1,299.00 (Annex 09 to the Complaint).

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

The Complainants must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

### **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 (“share” and “point”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

In that sense, and according to the evidence submitted, the Complainant has made a prima facie case against the Respondent who has not been commonly known by the disputed domain name and is neither authorized, licensed, or been allowed to use the Complainant’s trademark, whether in the disputed domain name, or in any other way.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, considering the Complainant has been assigned the subdomain <kyndryl.sharepoint.com> to log into its account at SharePoint developed by Microsoft for file management, the composition of the disputed domain name, which reproduces the Complainant’s highly distinctive and well-known trademark in association with the term “sharepoint”, may mislead Internet users into believing that the disputed domain name is somehow associated with the Complainant, contrary to the fact. Therefore, it is very hard to conceive that the Respondent could have any rights or legitimate interests in the disputed domain name other than to cause potential harm to the Complainant or its clients.

Furthermore, according to the evidence submitted by the Complainant, the use of the disputed domain name in connection with third party websites that allegedly spread malware, in conjunction with the listing for sale of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used 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.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the composition of the disputed domain name reproducing the Complainant's well-known trademark, together with a term referring to a product used by the Complainant (previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4);
- b) the Respondent has used the disputed domain name in connection with various third-party websites allegedly spreading malware;
- c) the listing of the disputed domain name for sale for an amount in excess of the out-of-pocket expenses likely incurred in its registration;
- d) the Respondent has provided no evidence of any actual or contemplated good faith use by it of the disputed domain name;
- e) the privacy protection service was used for registration of the disputed domain name, which shows the Respondent's attempt to conceal its identity;
- f) the existence of active mail exchange servers associated with the disputed domain name which could likely be used in connection with fraudulent messages or to further spread malware; and
- g) the Respondent targeted the Complainant in a previous UDRP case (*Kyndryl, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-3868](#)) that was decided in favor of the Complainant. The Respondent has also been a named respondent in many other UDRP cases in which the Respondent was found in bad faith by registering domain names incorporating third parties' trademarks.

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 <kyndrylsharepoint.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: May 16, 2025