

ADMINISTRATIVE PANEL DECISION

Kyndryl, Inc. v. 王明 (wang ming)
Case No. D2025-1304

1. The Parties

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

The Respondent is 王明 (wang ming), China.

2. The Domain Name and Registrar

The disputed domain name <kyndrylfederal.top> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2025. On April 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 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 in English on April 7, 2025.

On April 2, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 7, 2025, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on April 9, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 2, 2025.

The Center appointed Hong Yang as the sole panelist in this matter on May 9, 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 was IBM's former Global Technology Services infrastructure division comprising more than a quarter of IBM's employees and more than 75% of Fortune 100 companies are the Complainant's clients. The Complainant was separated from IBM and made an independent company. On November 4, 2021, the Complainant's group company, "Kyndryl Holdings, Inc." began trading shares on the New York Stock Exchange. The Complainant generated revenues of USD 17 billion in the fiscal year 2023 and is currently one of the largest IT service providers in the world, employing more than 90,000 people and operates in over 60 countries.

The Complainant's name "Kyndryl" was originally invented and derived from the words "kin" and "tendril" to represent the symbol of growing collaboration to foster human progress. One of the Complainant's subsidiaries operates under the name "Kyndryl Federal LLC", which mainly works with the US federal government and federal agencies to deliver cybersecurity solutions.

The Complainant owns a portfolio of trademarks containing the term "Kyndryl" globally, including the following: France Trademark Registration No. 4754262 for KYNDRYL, registered on April 12, 2021; International Trademark Registration No. 1628208 for KYNDRYL, registered on June 14, 2021, designating countries including China where the Respondent allegedly resided, and China Trademark Registration No. 55482092 for 勤达睿, which is the Chinese translation of the term "Kyndryl", assignment of which was registered on March 27, 2022.

The Complainant also registered and used the domain name incorporating the mark KYNDRYL, namely <kyndryl.com>.

The disputed domain name was registered on February 19, 2025. At the time of filing of the Complaint, the disputed domain name redirected to a third-party website, under which an online shop sold various products featuring the signs of "cheap" and "sale".

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.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that: (1) the disputed domain name include the Complainant's mark KYNDRYL as well as the addition of the word "federal", both of which are in English language; (2) the generic Top-level Domain ("gTLD") chosen and used in the disputed domain name, here ".top", rather than ".cn", indicates the Respondent's intent to target English speaking Internet users; (3) the disputed domain name redirects to a third-party website in English; and, (4) the Complainant's working language is English, and the use of Chinese would cause great expense and inconvenience for the Complainant.

The Respondent has, moreover, been notified by the Center, in both Chinese and English, of the language of the Proceeding through the email of Notification of Complaint. The Respondent did not make any specific submissions with respect to the language of the proceeding, nor did the Respondent file any Response in Chinese or English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time, and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive 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 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 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, "federal", 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 applicable gTLD, here ".top" in the disputed domain name do not change this finding, since the gTLD (including "new gTLDs"), as a standard registration requirement, is generally disregarded in the assessment under the first element. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Panel notes that the composition of the disputed domains name itself carries a risk of implied affiliation with the Complainant because the disputed domain name consists of the Complainant’s mark plus a term “federal”, which is part of the company name of one of the Complainant’s subsidiaries, “Kyndryl Federal LLC”. Where a domain name consists of a trademark plus an additional term, panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1. The available record shows that the Respondent is not affiliated or otherwise authorized by the Complainant or held any registration of the KYNDRYL mark anywhere. There is no evidence indicating that the Respondent is commonly known by the disputed domain name.

The disputed domain name redirects to a third-party website operating an online shop and selling various products under the key word of “cheapchoice”, without any disclaimer clarifying its (lack of) relationship with the Complainant. The Panel is convinced that the Respondent targets the Complainant and has capitalized on the reputation of its mark, likely gaining unlawful revenues from such redirection to online commercial activities seeking unfair advantage of the Complainant. Such use cannot constitute any legitimate noncommercial or fair use of the disputed domain name.

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 has used, without any license or authorization the Complainant’s trademark in full in the disputed domain name plus a term “federal” which corresponds to part of the company name of one of the Complainant’s subsidiaries. The Complainant’s trademark KYNDRYL is highly distinctive and well known in its business field, including in the region where the Respondent allegedly resides, and the Complainant’s registration and use of its mark predate the Respondent’s registration of the disputed domain name, so the Panel finds that the Respondent knew or should have known of the Complainant’s mark at the time of registering the disputed domain name. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names

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. [WIPO Overview 3.0](#), section 3.1.4

At the time of filing of the Complaint, the disputed domain name redirected to a third-party website selling various products. The Panel is convinced that by using the disputed domain name, the Respondent has attempted to attract, for commercial gain, Internet users to an online location, by creating a likelihood of confusion with the Complainant, and the Respondent intends to take unfair advantage from the Complainant's reputational KYNDRYL mark. The disputed domain name was thus registered and is being used in bad faith, according to paragraph 4(b)(iv) of 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 <kyndrylfederal.top> be transferred to the Complainant.

/Hong Yang/

Hong Yang

Sole Panelist

Date: May 23, 2025