

ADMINISTRATIVE PANEL DECISION

International Business Machines Corporation v. Mark Hetrich, Mark In
Case No. D2025-2128

1. The Parties

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

The Respondent is Mark Hetrich, Mark In, United States.

2. The Domain Name and Registrar

The disputed domain name <ar1-ibm.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 29, 2025. On May 30, 2025, the Center transmitted to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 2025, the Registrar transmitted to the Center its verification response, disclosing the registrant and contact information for the disputed domain name, which differed from the named Respondent (John Doe) in the Complaint. On June 2, 2025, the Center provided the Complainant with the registrant and contact information disclosed by the Registrar and invited the Complainant to amend the Complaint. The Complainant filed amended Complaints on June 6 and June 11, 2025.

The Center verified that the Complaint together with the amended Complaints 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 proceeding commenced on June 12, 2025. In accordance with the Rules, paragraph 5, the due date for the Response was July 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 3, 2025.

The Center appointed Professor Ilhyung Lee as the sole panelist in this matter on July 14, 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, widely known by its initials, IBM, describes itself as “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 states that it “officially became International Business Machines on February 14, 1924. Complainant has been offering products under the trademark ‘IBM’ ever since.” The Complainant owns a large number of IBM marks related to its business, in well over 100 jurisdictions, including the United States (registration number 1,696,454, registered on June 23, 1992; registration number 3,002,164, registered on September 27, 2005; and registration number 4,181,289, registered on July 31, 2012, among several others). The Complainant also registered the domain name <ibm.com>, on March 19, 1986.

The disputed domain name was registered on September 30, 2024. The disputed domain name currently resolves to an inactive website. Previously, the disputed domain name resolved to a Registrar parked page displaying pay-per-click (“PPC”) links. The Respondent used email addresses associated with the disputed domain name as part of a fraudulent email scheme in which the Respondent, impersonating the Complainant’s employees, sent emails to the Complainant’s clients purporting that the Complainant has a new subsidiary account and soliciting payments.

5. Parties’ Contentions

A. Complainant

The Complainant contends principally that: (i) the disputed domain name is identical or confusingly similar to a 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. In addition, the Complainant states, inter alia:

“Complainant has never licensed, contracted, or otherwise permitted anyone to apply to register the Disputed Domain Name”

“Respondent has been using the Disputed Domain Name to perform a phishing scam against Complainant and Complainant’s clients, and to derive illegitimate commercial gains as a result.... Respondent has been impersonating Complainant employees by using the fake email addresses [...]@ar1-ibm.com and [...]@ar1-ibm.com. Respondent reached out to clients of the Complainant purporting that the Complainant has a new subsidiary account and requesting clients’ bank information for payments.”

“[T]he Respondent actively used the IBM trademark in the Disputed Domain Name to derive illegitimate commercial gains by displaying pay-per-click advertisement links”

“Complainant sent a cease-and-desist letter to Respondent through the Registrar at the email address listed in the Whois records on 12 February 2025, asking Respondent to disable and transfer Disputed Domain Name to IBM.... An additional cease-and-desist letter was sent on 27 February 2025 from the Complainant to the Respondent’s Hosting Provider, which is also the Registrar.... Respondent did not reply to Complainant’s letter from 12 February 2025 nor 27 February 2025, further showing bad faith on Respondent’s part.”

B. Respondent

The Respondent did not reply to the Complainant's contentions. Under paragraphs 5(f) and 14(a) of the Rules, the Panel may decide the dispute based on the Complaint. Paragraph 14(b) allows the Panel to draw appropriate inferences from the Respondent's default.

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 the Complainant's mark 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 demonstrated rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the Complainant's IBM mark. Although the addition of "ar1-" may bear on the assessment of the second and third elements of paragraph 4(a) of the Policy, the Panel finds that this addition 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 generic Top-Level Domain ("gTLD") ".com", a technical registration requirement, is disregarded in the consideration of this element. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

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 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.

Here, the Complainant states that it has not authorized the Respondent to use the IBM mark and has met its initial burden of making a prima facie showing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden shifts to the Respondent to demonstrate any such rights or legitimate interests. Paragraph 4(c) of the Policy provides a non-exhaustive list of circumstances that may demonstrate the Respondent's rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1.

The Respondent has defaulted. It 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. Nor is the Panel able to ascertain any evidence that would demonstrate the Respondent's rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances that are evidence of “registration and use of a domain name in bad faith.” Panels have held that 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.

Here, the Respondent’s selection of the disputed domain name <ar1-ibm.com> appears to be purposeful. As the Complainant notes, the term “ar1” commonly refers to a statistical autoregressive model, which is related to a part of the Complainant’s service offerings. The nature of the disputed domain name, which includes the Complainant’s widely-known mark and adds a term that corresponds to the Complainant’s area of activity, and the clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name are relevant factors in determining bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In addition to registering the disputed domain name, the Respondent created and used email addresses ending with “@ar1-ibm.com” to contact the Complainant’s clients, posing as employees of the Complainant. Panels have held that the use of a domain name for purposes other than hosting a website, including sending phishing emails, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Although the disputed domain name currently resolves to an inactive site, this does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the requisite bad faith element is present.

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 <ar1-ibm.com> be transferred to the Complainant.

//Ilhyung Lee/

Ilhyung Lee

Sole Panelist

Date: July 28, 2025