

## **ADMINISTRATIVE PANEL DECISION**

International Business Machines Corporation v. Tenzing baro  
Case No. D2025-2719

### **1. The Parties**

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

The Respondent is Tenzing baro, United States.

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

The Disputed Domain Names <ibmafrica.com> and <ibmaustralia.com> (the "Disputed Domain Names") are registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 9, 2025. On July 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On July 10, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 14, 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 amendment to the Complaint on July 15, 2025.

The Center verified that the Complaint together with the amendment to the 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 July 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2025. The Respondent sent email communications to the Center between July 16, 2025 and September 16, 2025. On July 31, 2025, the Complainant requested a suspension of the proceedings. Consequently, on August 4, 2025, the Center sent the Notification of

Suspension to the Parties, suspending the proceedings until September 3, 2025. On September 11, 2025, the proceedings were reinstituted.

The Center appointed Peter J. Dernbach as the sole panelist in this matter on September 18, 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, the Complainant is a leading innovator in the design and manufacture of many technology products, including computers and computer hardware, software, and accessories. The Complainant officially became International Business Machines on February 14, 1924, and has been offering products under the trademark IBM since that time. The Complainant owns a number of registrations for the IBM trademark, including the following trademarks in the United States:

- United States trademark registration No. 640606 for IBM (word mark), filed on March 12, 1956, and registered on January 29, 1957, in international class 9.
- United States trademark registration No. 1058803 for IBM (word mark), filed on October 29, 1974, and registered on February 15, 1977, in international classes 1, 9, 16, 37, 41, and 42, among others.
- United States trademark registration No. 1694814 for IBM (word mark), filed on August 31, 1990, and registered on June 16, 1992, in international class 36.
- United States trademark registration No. 4181289 for IBM (figurative mark), filed on December 21, 2010, and registered on July 31, 2012, in international classes 9, 16, 18, 20, 21, 22, 24, 25, 28, 35, and 41, among others.

The Disputed Domain Names were registered by the Respondent on October 5, 2024. They resolve to parking webpages with pay-per click ("PPC") links.

The Respondent, according to the information provided by the Registrar, appears to be an individual with an address located in the United States.

#### **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 Names.

- (1) The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights

Notably, the Complainant contends that the Disputed Domain Names consist of the "ibm" element, followed by the words "africa", "australia" (not case sensitive), and the generic suffix ".com." The "ibm" element is identical to the Complainant's registered and well-known IBM trademark. The only differences between the Disputed Domain Names and the Complainant's trademarks are the addition of the words "africa" or "australia." Including the terms "africa" and "australia" creates the perception that the Complainant is associated with the Disputed Domain Names as it references regions of the world in which the Complainant operates and offers services. These do not obviate the confusing similarity between the Disputed Domain Names and the IBM trademark because the Disputed Domain Names are merely adding a geographical location.

(2) The Respondent has no rights or legitimate interests in respect to Disputed Domain Names

The Complainant contends that it has never licensed, contracted, or otherwise permitted the Respondent to apply to register and/or use the Disputed Domain Names. Also, there's no evidence that the Respondent is using the Disputed Domain Names for a bona fide offering of goods or services, nor is there any evidence of fair use. The Respondent is not commonly known as "ibm" or the Disputed Domain Names. There is also no evidence showing that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Names.

(3) The Disputed Domain Names were registered and are being used in bad faith

The Complainant asserts that the Disputed Domain Names directly references the Complainant and purports to associate the Complainant with PPC links displayed on the webpages of the Disputed Domain Names, which is an attempt to generate more traffic to the Disputed Domain Names and will result in more revenue for the Respondent.

The Complainant further argues that the Disputed Domain Names displayed the Complainant's IBM trademark, showing clear knowledge of the Complainant and its trademark, reflecting Respondent's bad faith in seeking to derive illegitimate commercial gain from the public display of the PPC content.

Furthermore, the Complainant contends that the Respondent used a privacy shield to mask its identity, which makes it difficult for the Complainant to contact the Respondent and amicably settle a domain dispute.

The above circumstances demonstrate that the Disputed Domain Names were registered and are being used in bad faith to intentionally cause market confusion and generate commercial gain.

## **B. Respondent**

The Respondent did not substantively reply to the Complainant's contentions. The Respondent merely asserted that it does not have an interest in the Disputed Domain Names and that they have been deleted or cancelled.

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, in order to succeed in this administrative proceeding and obtain the requested remedy (in this case, transfer of the Disputed Domain Names), the Complainant must prove that each of the three following elements are present:

- (i) the Disputed Domain Names are 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 Names; and
- (iii) the Disputed Domain Names have been registered and are being used in bad faith.

### **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 Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has provided evidence showing that it owns rights in respect of the IBM trademark for the purposes of the Policy.

The Panel finds the IBM mark is clearly recognizable within the Disputed Domain Names. The words “africa,” or “australia” included in the Disputed Domain Names are geographical terms, which do not prevent a finding of confusing similarity under the first element. The Top Level Domain “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.

Accordingly, the Panel finds that the Disputed Domain Names are confusingly similar to the Complainant’s trademark and 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 the Disputed Domain Names.

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.

The Complainant has asserted that it has no connection or affiliation with the Respondent, nor has it authorized the Respondent to use the IBM trademark or register the Disputed Domain Names. The Disputed Domain Names resolve to parking webpages with PPC links with advertisement links containing references to technology-related products and services. Such use does not constitute a bona fide offering of goods or services where the links compete with, or seek to capitalize on, the reputation and goodwill of the Complainant’s mark, or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

In addition, there is no evidence showing that the Disputed Domain Names have any connection with the Respondent’s name or the Respondent is commonly known by the Disputed Domain Names. Nor is there any evidence showing that the Respondent is making legitimate noncommercial or fair use of the Disputed Domain Names. The Disputed Domain Names consists of an IBM trademark plus additional geographical terms, such composition cannot constitute fair use as it impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names. The Respondent has not come forward with any arguments or evidence demonstrating rights or legitimate interests in the Disputed Domain Names such as those enumerated in the Policy or otherwise. On the contrary, the Respondent indicated that it does not have any interest in the Disputed Domain Names.

Therefore, 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 Complainant's IBM trademarks have been registered for several decades in many countries around the world before the Disputed Domain Names were registered. Notably, the Disputed Domain Names incorporated the Complainant's IBM trademark, showing the Respondent had clear knowledge of the Complainant and its trademark (Annexes 3.1 and 3.3 to the Complaint). The Disputed Domain Names wholly incorporate the IBM mark, which appear to have no meaning other than the Complainant's trademark. It is implausible that the Respondent purely by coincidence, came up with the Disputed Domain Names that reproduce the word. Therefore, the Panel finds that the Respondent registered the Disputed Domain Names in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

At the time of the Complaint's submission, the Disputed Domain Names resolved to parking webpages with PPC links containing references to technology-related products and services, including some that used the IBM trademark (Annexes 3.1 and 3.3 to the Complaint). As the Disputed Domain Names wholly incorporate the IBM mark, it appears that the Respondent is attempting to attract users for commercial gain by creating a likelihood of confusion as to the source, sponsorship, or affiliation of the Disputed Domain Names. This constitutes use in bad faith. *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#).

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 Names <ibmafrica.com> and <ibmaustralia.com> be transferred to the Complainant.

*/Peter J. Dernbach/*

**Peter J. Dernbach**

Sole Panelist

Date: October 2, 2025