

ADMINISTRATIVE PANEL DECISION

Kyndryl, Inc. v. Roderick Barnes, neckovib
Case No. D2025-4282

1. The Parties

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

Respondent is Roderick Barnes, neckovib, United States.

2. The Domain Name and Registrar

The disputed domain name <kyndryl-cloud.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 October 20, 2025. On October 20, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 20, 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 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 October 21, 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 October 21, 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 October 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 19, 2025.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on November 21, 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

Complainant is a corporation organized under the laws of the State of Delaware, United States. Complainant was part of a spin-off from IBM in November 2021 when its parent holding company, Kyndryl Holdings, Inc., began trading as an independent enterprise on the New York Stock Exchange ("NYSE") under ticker symbol "KD".¹ Complainant constituted IBM's former Global Technology Services infrastructure services business. Following its emergence as an independent enterprise, Complainant generated revenues of USD 17 billion in the fiscal year 2023, is one of the largest information technology service providers in the world, employing more than 90,000 people and operating in over 60 countries. Complainant operates a commercial website at "www.kyndryl.com".

Complainant is the owner of registration for the word, and word and design, trademark² KYNDRYL, including registration as a word mark on the trademark registry of the Industrial Property Office of Mauritius, registration number 30047/2021, registration dated March 1, 2021, in international classes ("ICs") 9, 35, 37, 38, 41, and 42, covering computers and other electronic equipment, advertising and business management services, construction and repair services, telecommunication services, education and entertainment, and computer programming and software as a service, all as further specified; registration as a word mark on the trademark registry of the Institut National de la Propriété Industrielle ("INPI") of France, registration number 4754262, registration dated April 12, 2021, in ICs 9, 35, 37, 38, 41, and 42; registration as an International Trademark (word) under the Madrid System, registration number 1628208, registration dated June 14, 2021, in ICs 9, 35, 37, 38, 41, and 42, designating a substantial number of countries (with protections granted), including the United States, and; registration as a word and design mark on the Principal Register of the United States Patent and Trademark Office ("USPTO"), registration number 7070585, registration dated June 6, 2023, in ICs 9, 35, 37, 38, 41, and 42.

According to the Registrar's verification, Respondent is registrant of the disputed domain name. According to the Whois report, the disputed domain name was registered on May 1, 2025.

Respondent has used the disputed domain name to direct Internet users to a search parking page headed with a block identified by the name of the Registrar and offering search for domains. The search page body is headed by the disputed domain name and includes click through buttons listing services similar to those provided by Complainant, including "Google Cloud Platform for Free", "It [sic] Solutions for Energy and Utilities", "Renewable Energy SaaS" and "Third Party Cloud Services". A statement at the bottom of the parking page provides: "This webpage was generated by the domain owner using Sedo Domain Parking. Disclaimer: Sedo maintains no relationship with third party advertisers. Reference to any specific service or trade mark is not controlled by Sedo nor does it constitute or imply its association, endorsement or recommendation." There is no evidence on the record of these proceedings as to whether Respondent affirmatively selected an option for a pay-per-click ("PPC") parking page or whether this is the default page used by the Registrar in the absence of redirection by a domain name registrant. Complainant has provided evidence that the disputed domain name is associated with mail exchange ("MX") and TXT records but has not provided evidence whether or not such records are created by default by the Registrar. There is no indication of blacklisting of the disputed domain name.

There is no evidence on the record of this proceeding as to any affiliation, commercial or otherwise, between Complainant and Respondent.

¹For purposes of this decision, it is not necessary to distinguish between the business of Complainant and its affiliated holding company, and references to Complainant include reference to that holding company.

² The Panel uses the term "trademark" in its inclusive sense to cover both goods and services marks.

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 it owns rights in the trademark KYNDRYL³ and that the disputed domain name is confusingly similar to that trademark. Complainant asserts that its trademark is highly distinctive.

Complainant alleges that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent has not been commonly known by Complainant's trademark or the disputed domain name prior to its registration; (2) Respondent owns no rights in any trademarks incorporating Complainant's trademark; (3) Respondent has not legitimately traded under Complainant's trademark or the disputed domain name; (4) there is no conceivable legitimate use to which Respondent could put the disputed domain name; (5) Respondent does not have a fair use right in the disputed domain name; (6) the disputed domain name falsely implies an affiliation between Respondent and Complainant; (7) the disputed domain name is used in connection with a PPC parking page that includes advertising links for services in the same industry as Complainant, offering competitive services; (8) even if the PPC page was automatically generated by the Registrar, Respondent is still responsible for its own conduct; and (9) the disputed domain name is configured with MX and Sender Policy Framework ("SPF") records that would allow Respondent to generate email messages using the disputed domain name, which would be highly confusing or misleading, and would not establish rights or legitimate interests.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) use of the disputed domain name in connection with a PPC advertising page with links to businesses competitive with Complainant evidences bad faith, regardless whether those competitive links were generated automatically or by Respondent; (2) the possibility that Respondent could use the disputed domain name to send email messages incorporating Complainant's distinctive trademark would create a high risk of confusion for recipients; (3) Complainant's trademark is coined and distinctive, and Respondent's addition of the term "cloud" that refers to a business in which Complainant operates is likely to cause confusion as to the source of services; (4) Respondent knew or should have known of Complainant and its services when it registered the disputed domain name; and (5) the foregoing factors cumulatively evidence bad faith registration and use by Respondent.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of registration. There does not appear to have been difficulty in completing at least some email transmission of notice to Respondent. Courier delivery to the physical address listed in Respondent's record of registration was successful. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

³ Complainant refers to its KYNDRYL trademarks in the plural, referencing its multiple registrations, as well as its word and design trademark registration in the United States. For purposes of this decision the Panel confines its reference to the KYNDRYL trademark (recognizing multiple registrations). There is no need to refer further to the word and design trademark.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief.

These elements are that:

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

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 the trademark KYNDRYL 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 another term, here "-cloud", 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 Respondent may demonstrate rights or legitimate interests in the disputed domain name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving 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 Respondent. As such, where Complainant, as here, makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent, as here, fails to come forward with such relevant evidence, 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.

The Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with Complainant. [WIPO Overview 3.0](#), section 2.5.1. Respondent's use of the disputed domain name that is confusingly similar to Complainant's highly distinctive trademark, for purposes of directing Internet users to a PPC page primarily providing links to businesses competitive with those of Complainant, does not

constitute a bona fide offering of goods or services, nor does it constitute legitimate noncommercial or fair use of the disputed domain name. There is no evidence that Respondent was commonly known by the disputed domain name or that it established trademark rights in it. Respondent has not attempted to justify its registration and use of the disputed domain name in connection with any legitimate purpose.

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.

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.

Complainant's KYNDRYL trademark is a coined term and highly distinctive. A basic Internet search by Respondent prior to registration of the disputed domain name would have readily identified Complainant and its distinctive trademark. The initiation of Complainant's trademark use as it spun off from IBM and began trading as a separate enterprise on the NYSE was a well-publicized event. Given the distinctive nature of Complainant's trademark and its well-publicized use, the Panel concludes that Respondent was almost certainly aware of that trademark when it registered and used the disputed domain name. Respondent has not suggested otherwise.

Respondent is using the disputed domain name to direct Internet users to a PPC parking page that provides links to business services in some manner competitive with those of Complainant. While it is not clear whether Respondent affirmatively elected to associate the disputed domain name with the PPC page, with the reasonably assumed diligence of visiting his own website, Respondent would have discovered such use and could have redirected the disputed domain name elsewhere. Respondent's use of the PPC parking page presumably generated some advertising revenue for Respondent. In any case, Internet users by virtue of the disputed domain name were led to believe that Complainant was somehow affiliated with Respondent's website, which was likely to have caused some injury or disruption to Complainant.

It is significant in these proceedings that the highly distinctive character of Complainant's trademark makes it unlikely (though not inconceivable) that a third party such as Respondent could make legitimate noncommercial or fair use of that trademark in a domain name, or could otherwise use it in a manner that did not constitute bad faith. But Respondent has not suggested any plausible good faith basis for its registration and use of the disputed domain name, and the Panel is not inclined to speculate on what that might be. The Panel on balance of probabilities concludes that Respondent registered the disputed domain name in bad faith, including by using it in connection with a PPC page that includes links to businesses competitive with Complainant.⁴

The Panel finds that Complainant has established the third element of the Policy.

⁴Although the Panel is sensitive to the risk of use of confusingly similar domain names for the purpose of sending deceptive email messages, because it is common practice among some registrars to create MX and associated records in connection with registration, the Panel is not inclined to attribute substantial evidentiary significance to the creation of such records absent evidence of an affirmative (non-Registrar default) act by Respondent.

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 <kyndryl-cloud.com> be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: December 3, 2025