

Before : Rajendra Kumar (SOLE ARBITRATOR)

In the matter of Arbitration Act 1996 as Amended by
Arbitration & Conciliation (Amendment) Act- 2015

And

INDRP Rules of Procedure,

And

.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

And

In the matter of- An Arbitration between

-----To be continued

.IN REGISTRY OF INDIA

INDRP CASE No. 2153

IN THE MATTER OF AN ARBITRATION UNDER THE

International Business machines corporation

International Business Machines Corporation

1, New Orchard Road,

Armonk, New York- 10504-1722 USA.

v/s

jun yin, huaian, Jiangsu

NAME AND ADDRESS OF THE REGISTRANT

Name: Jun Yin

Address: Huaiyinqu Huang He Hua Yuan 6-8-101 Huaian

223300 Jiangsu, China

Email: domain789@126.com

NAME AND ADDRESS OF THE REGISTRAR

Dynadot, LLC

205 E 3rd Ave, Ste 314

San Mateo, CA 94401-4052

United States

Email: info@dynadot.com

INDOMAIN NAME WHICH IS SUBJECT MATTER OF THE COMPLAINT: IBM.COM.IN

I. FACTS OF THE CASE

a. Complainant

1. The Complainant was incorporated in the State of New York, United States of America on June 16, 1911 as Computing-Tabulating-Recording Co. (C-T-R), a consolidation of the Computing Scale Co. of America, The Tabulating Machine Co., and The International Time Recording Co. of New York. In 1924, C-T-R changed its name to "International Business Machines Corporation", which ultimately led to the birth of the mark IBM, the same being an acronym for "International Business Machines".
2. New York on June 16, 1911, a case can be made for any of the five following dates on which to base IBM's anniversary:
September 30, 1889: The incorporation of Bundy Manufacturing Co. (time recording equipment), the first of many components that eventually became the Computing-Tabulating-Recording Company, Inc. (C-T-R), and later IBM.
December 3, 1896: Incorporation by Herman Hollerith of The Tabulating Machine Co. (punched card tabulating equipment), the part of C-T-R that eventually became IBM's principal line of business.

June 16, 1911: Incorporation of C-T-R, which had acquired Computing Scale Company of America, The Tabulating Machine Company, International Time Recording Company of New York, and the Bundy Manufacturing Company. Only the first three businesses were represented in the C-T-R name. There were also a number of other companies formed after 1889 which had been acquired by the various C-T-R units prior to 1911.

May 4, 1914: Thomas J. Watson, Sr., was hired as C-T-R's general manager. IBM has in the past traditionally recognized this date as its anniversary.

February 14, 1924: The name of C-T-R was changed to International Business Machines Corporation, a name which actually had been registered in New York since 1918. The name was first used in 1917 when International Business Machines Company, Ltd., was established in Canada.

The Complainant recognizes 1911 as the year in which the core predecessor businesses began operating as a unified corporation. Extracts from the Complainant's website detailing on the history of the Complainant's predecessor are filed herewith as **Annexure 1.**

3. The Complainant is one of the world's leading technology and consulting organizations with presence in over 175 countries through its wholly owned subsidiaries with over 288,300 employees worldwide. The Complainant has continuously used the trademark IBM in relation to hosts of products and services including but not limited to computers and computer hardware, software and accessories. The products and services offered by the Complainant as of today can broadly be categorized into the following four segments:

- Software - provides software solutions that address client needs for a hybrid cloud platform, data and AI, automation, and security on their journey to hybrid cloud
 - Consulting - provides deep industry expertise and market-leading capabilities in business transformation and technology implementation.
 - Infrastructure - provides trusted, agile and secure solutions for hybrid cloud and is the foundation of the hybrid cloud stack.
 - Financing - facilitates IBM clients' acquisition of information technology systems, software and services
- Extracts from the Complainant's website containing the overview of the products and services of the Complainant are filed herewith as **Annexure 2**.

4. The Complainant's revenue from its worldwide operations for the year ending 2024 was USD 62.8 billion and its net income for the said year was USD 6.02 billion. The advertising and promotional expenses incurred by the Complainant in the year ending 2022 were USD 1,173 million. The relevant extracts taken from the annual report of the Complainant for the year ending 2024 are filed herewith as **Annexure 3**.

5. The Complainant's breakthrough technologies are transforming industries with smarter ways to do business, new growth opportunities and strategies to compete and win. The Complainant has covered almost every field where the Complainant's services could be efficiently rendered. The Complainant sets its foot in various segments, including, but not limited to, the following:

- a. Financial Services
- b. Consumer Goods
- c. Energy
- d. Government
- e. Retail
- f. Telecommunications

Enclosed herewith as **Annexure 4** are extracts detailing various industries wherein the Complainant is present.

6. The history of the Complainant's products goes back to the 1880s, wherein the Complainant created the first Dial Recorder in 1888. Various innovations and modifications happened at the Complainant's end and the first computer under the trademark IBM was made in the year 1944. In 1969, one of the great engineering feats in human history, the Complainant built the computers and wrote many of the complex software programs for the Apollo missions, landing Lt. Neil Armstrong and Col. Buzz Aldrin on the moon and guiding them back safely to Earth. In the year 1981, the IBM PC was built, one of the first computers intended for home consumer use. In 1992, the Complainant rolled out a new series of notebook computers - the ThinkPad. In the quest of growth and expansion, the Complainant today stands firm in the field of Information Technology as one of the oldest and the biggest Information Technology Companies. Enclosed herewith as **Annexure 5** are the extracts emphasizing in detail on the timeline of the products and services of the Complainant.
7. Complainant's association with India dates back to 1920 when Mr. C.R Watson sailed for Bombay to open the first office in India on behalf of the British Tabulating Machine Company (BTM) that was then acting as the licensee for the Complainant's products. Mr. C.R Watson who joined Complainant's London

Office in the year 1904 as a junior clerk was trained and sent to India for carrying out the Complainant's business venture.

8. Further, the Complainant opened its first offices in India on the following dates:

Calcutta, India 1936

New Delhi, India 1947

9. In 1951, with an eye on modernizing India using technology, Prime Minister Jawaharlal Nehru welcomed the Complainant. With a manufacturing facility at Mumbai, the Complainant partnered with several Government organizations by deploying its giant computers which required trucks for transportation & delivery. Over the next 2 decades, the Complainant made inroads into several private & educational entities as well as well with a variety of electronic products including personal computers, storage devices, typewriters & printers under the "THINK" catchphrase. Extract detailing on the aforesaid is enclosed herewith as **Annexure 6**.

10. It is submitted that one of the first computers to be installed in India was the IBM 1620 in August 1963 at the Indian Institute of Technology, Kanpur (IITK). Since the time of its inception in India, the Complainant has been significantly present across the length and breadth of the country. Over the past two decades, the Complainant has emerged as a significant contributor to India's growth drive by offering a wide range of

domain-specific solutions, ranging from banking, traffic and transport, telecommunications, aviation, education, water, energy, waste management, health, disaster and public safety, among others. The Complainant's strong arm in data collection and data analytics, to help study and improve on facilities, has given a boost to services in India at large. In 2022, IBM received 9,130 patents, with India accounting for over 930 patents making the country the second highest contributor to the record tally. Extract detailing on the aforesaid is filed herewith as **Annexure 7**.

11. IBM India Private Limited is the Indian subsidiary of the Complainant, which is headquartered at Bengaluru, Karnataka. It has Offices in 15 cities in India, including Ahmedabad, Bengaluru, Delhi, Kolkata, Mumbai, Chennai, Pune, Gurugram, Noida, Bhubaneswar, Visakhapatnam, Jashedpur, Mysore, Jaipur and Hyderabad.
12. The Complainant is one of the oldest and the biggest Information Technology firms in India and the same has also been considered as the largest employer. In 2017, the Complainant employed about 130,000 people in India, nearly one-third of its workforce, and much more than around 92,000 employed in its country of origin. Enclosed herewith as **Annexure 8** are extracts detailing on the aforesaid.

13. It is submitted that the Complainant had adopted various distinctive logos for its trademarks throughout the years. An overview of the logos designed and adopted by the Complainant from the date of inception to the present year are given below:

VII. IN COMPLIANCE WITH PARAGRAPH 4(b)(IX) OF THE INDRP RULES OF PROCEDURE, IT IS HEREBY DECLARED THAT:

1. The Complainant, by submitting the Complaint agrees to the settlement of the dispute, regarding the domain name which is the object of the Complaint by final and binding arbitration in India conducted in accordance with the Arbitration & Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2019 (as amended upto June, 2023) read with the Arbitration & Conciliation Rules, the .IN Domain Name Dispute Resolution Policy of .IN Registry, Rules of Procedure and any by-laws, rules or guidelines framed there under, as amended from time to time.
2. The Complainant agrees that its claim and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain name holder and waives all such claims and remedies against the .IN REGISTRY, as well as their directors, officers, employees, and agents and the arbitrator who will hear the dispute.

3. The Complainant by submitting this Complaint agrees that the decision of the Arbitrator to be appointed in this matter may be made public and may be published on.

II. GROUNDS

(A) PRIOR RIGHTS AND TRADEMARK REGISTRATIONS

Paragraph 3(b) of the INDRP Policy enjoins the Registrant to ensure that *'to the knowledge of the Registrant, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party'*. The Complainant submits the following in support of paragraph 4(i) of the INDRP Policy and paragraph 4(b)(vi)(1) of the INDRP Rules of Procedure, that the Registrant's domain name is identical to the trademark in which the Complainant has rights:

(i) The Registrant's impugned domain name 'ibm.com.in' is identical to and comprises in its entirety the Complainant's trademark/name 'IBM', which is a registered and well-known trademark of Complainant. It is submitted that the Registrant has registered the impugned domain name 'ibm.com.in' with the *mala fide* intent to gain undue leverage from it and make illicit pecuniary gains. It is evident that the objectionable domain name, registered by the Registrant, has no meaning or significance independent of the Complainant's trademark/name 'IBM'. The well-known nature of the Complainant's trademark/name 'IBM' and the Registrant's misuse of the same, clearly establishes that the Registrant registered the impugned domain name

with full knowledge of the Complainant, its business activities and intellectual property rights. The unmistakable identity/deceptive similarity between the Complainant's trademark/name 'IBM' on one hand and Registrant's choice of its domain name on the other hand, is patently misleading to the consuming public.

(ii) The Complainant states that the impugned domain name 'ibm.com.in' is identical/similar to, *inter alia*, the numerous domain names comprising Complainant's trademark/name 'IBM'.

(iii) It is further submitted that as per the .IN Registry records, the impugned domain name 'ibm.com.in' was registered in 2022 whereas the Complainant's domain names 'ibm.com' and 'ibm.in' were created/registered much prior to the impugned domain name i.e. on March 19, 1986 and February 14, 2005 respectively. The earliest application for the trademark **IBM** was filed in Norway under Application No. 45961 in classes 6, 7, 9, 14, 16 on September 09, 1949. In India, the earliest registration of the mark **IBM** dates back to September 3, 1955, under No. 170687. Thus, the Complainant's adoption and use of the trademark/name 'IBM' and domain name comprising 'IBM' is prior to the Registrant's registration of the impugned domain name 'ibm.com.in'. In view of the same, it is apparent that the Complainant has prior rights in the trademark/name 'IBM' and domain name comprising the trademark/name 'IBM' *vis-à-vis* the Registrant. The website including without limitation other form publication of the .IN REGISTRY.

DNS Form	ibm.com.in
User Form	ibm.com.in
ROID	D5B9468BE695D4C109B6ED60CB388648B-IN
Registrar Name	Dynadot, LLC
IANA ID	472
Create Date	2022-01-21T18:34:22
Expiry Date	2027-01-21T18:34:22
Last updated Date	2026-07-07T12:54:24
EPP Status	clientDeleteProhibited, clientTransferProhibited, clientUpdateProhibited, serverDeleteProhibited, serverRenewProhibited, serverTransferProhibited, serverUpdateProhibited
Domain State	Registered
Assigned Nameservers	hehua.ns.giantpanda.com, zhenzhen.ns.giantpanda.com
Registrant Client ID	c-488777

Registrant ROID	C6012DC57A89141C5B9CA8C5174EB0B5B-IN
Registrant Create Date	2019-03-03T05:48:30
Email	domain789@126.com
Phone	+86.17199331888
Phone Extension	NULL
Fax	NULL
Fax Extension	NULL
International Postal Name	jun yin
International Postal Organisation	NULL
International Postal Street Line 1	huaiyingu huang he hua yuan 6-8-101

The notice to OP has been sent on 18-07-2026. The case has been proceeded ex-parte as the notice already served but no reply has been filed by the OP Party despite of given many opportunities.

Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service 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.

A. Identical or Confusingly Similar

The Complainant has clearly shown that it has rights in the IBM trademarks registered in several countries around the world. The disputed domain name incorporates the whole of the trademark IBM. The Complainant has a local presence as part of its worldwide extended commercial activities.

The Complainant has rights in the IBM trademarks and that the disputed domain name is confusingly similar to this trademark.

Therefore, the Panel considers that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists several manners in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The consensus of previous decisions under the Policy is that a complainant may establish this element by making out a prima facie case not rebutted by the respondent that the respondent has no rights or legitimate interests in the disputed domain name. In this case, the

Panel is satisfied that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name based upon its submissions that (1) the Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the IBM trademark preceded the registration of the disputed domain name for years; (2) the Complainant has not licensed or otherwise authorized the Respondent to use its IBM trademarks or to incorporate them into a domain name; (3) that, given the extensive use of the Complainant's marks and the fact that it is uniquely linked to the Complainant, the Respondent must have been aware of this when it registered the disputed domain name; and (4) that the current use of the disputed domain name does not relate to a bona fide offering of goods or services or any legitimate noncommercial or fair purpose; Presumably to hide his identity and prevent the Complainant from contacting him; and (6) the Respondent never answered the Complainant's letter despite several reminders.

The Respondent did not submit a response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name;
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct;
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's web site or location or of a product or service on its website or location.

The Complainant has demonstrated that its IBM trademarks are well-known and that the disputed domain name incorporates in full its IBM trademarks and that the Respondent was aware of the Complainant's IBM trademark at the time the Respondent registered the disputed domain name. It is clear to this Panel that the Respondent is using the trademark IBM to attract Internet users to his website for commercial gain, promoting its telecommunication services. Thus, the Respondent is trying to benefit from the goodwill associated with IBM and confusion created by the presence of the expressions "ibm" within the disputed domain name. In accordance with paragraph 4(b)(iv) of the Policy, the Respondent intentionally attempts to attract for commercial gain Internet users to the websites, by creating a likelihood of confusion with the Complainant's IBM trademarks as to the source, sponsorship, affiliation or endorsement of its website.

Accordingly, the Panel concludes that the Complainant has satisfied its burden of showing bad faith registration and use of the disputed domain name under paragraphs 4(a)(iii) and 4(b) of the Policy.

7. Decision

For the foregoing reasons, the Arbitral Tribunal/panelist holds that the respondent domain name `ibm.com.in` has been registered with an opportunistic mindset and is being used in bad faith therefore all elements of the policy has been satisfied by the complainant.

The Arbitral Tribunal directs that the disputed domain name ibm.com.in be transferred forthwith to the complainant. The parties shall bear their own costs.

Date: 08-09-2026.

(Rajendra Kumar)

Sole Arbitrator

Panelist

