

ADMINISTRATIVE PANEL DECISION

Stichting BDO v. Contact Privacy Inc. Customer 12412667671 /
Scott Alex, BDO USA
Case No. D2022-1227

1. The Parties

The Complainant is Stichting BDO, Netherlands, represented by McDermott Will & Emery LLP, United States of America (“United States”).

The Respondent is Contact Privacy Inc. Customer 12412667671, Canada / Scott Alex, BDO USA, United States¹.

2. The Domain Name and Registrar

The disputed domain name <bdousallp.org> (the “Domain Name”) is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 7, 2022. On April 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 8, 2022 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 on April 13, 2022.

¹ As the Panel will further discuss below, while the registrant organization provided at the time of the registration of the Domain Name was apparently BDO USA, the Panel notes that the Complainant has indicated that BDO USA, LLP is a member of its international network of public accounting firms. The Panel will keep here the references to the Respondent named as “BDO USA” only for the purpose of the implementation of this decision, but the Panel finds that the Respondent provided this name for obscure and spurious purposes (such as impersonation). Therefore, references to the Respondent should not be read to include the company with the name “BDO USA, LLP” that belongs to the Complainant’s BDO Network.

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 of the Complaint, and the proceedings commenced on April 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 18, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on May 23, 2022. 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 member of the BDO Network, an international network of public accounting firms that dates back to 1963. The BDO Network currently has over 88,000 employees worldwide in 1,617 offices in 167 countries, including in the United States, Europe, Africa and the Middle East, North and South America, and Asia.

The Complainant is the owner of numerous trademark registrations comprising the mark BDO, including United States trademark number 4,854,142 BDO registered on November 17, 2015. BDO USA, LLP is the United States member of BDO International, the BDO Network, and has carried on business under that name since 1973.

The Domain Name was registered on April 4, 2022. It does not resolve to an active website. According to the information provided by the Registrar, the underlying registrant's contact details include "Scott Alex, BDO USA" at an address in Dallas, United States.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its BDO trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its BDO trademark, both by virtue of its trademark registrations and as a result of BDO having become a distinctive identifier associated by consumers with the Complainant and its services through its widespread use of the mark over many years. Ignoring the generic Top-Level Domain (“gTLD”) “.org”, the Domain Name comprises the entirety of the Complainant’s BDO trademark together with the terms “usa” and “llp”. In the view of the Panel, the addition of these terms does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s mark. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Domain Name is not being used for an active website. The Respondent has no connection with the Complainant or the BDO Network. Although the Respondent apparently provided the name BDO USA as the registrant organisation at the time of registration of the Domain Name, the Panel notes that this is not sufficient to find that the Respondent is commonly known by the Domain Name. In the Panel’s view, the registration of a domain name conjoining the Complainant’s trademark and the terms “usa” and “llp”, together forming the name of the United States member of the BDO Network, could not conceivably be used by the Respondent for any legitimate purpose and there could be no possible justification for the Respondent having registered the Domain Name.

In the Panel’s view, the Domain Name could only have been registered to deceive Internet users into believing that it had been registered by or operated on behalf of the Complainant and for commercial gain and/or for unlawful purposes, whether associated with phishing or other fraudulent activities.

The Respondent has chosen not to respond to the Complaint to explain its registration or use of the Domain Name, or to take any other steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name, there is no doubt that the Respondent had the Complainant and its rights in the BDO mark in mind when it registered the Domain Name. As set out above, the only possible inference is that the Respondent registered the Domain Name for commercial gain and/or for unlawful purposes with a view to taking unfair advantage of the Complainant’s rights in the mark and to confuse Internet users into believing that the Domain Name was being operated by or authorized by the Complainant.

To the extent that the Respondent’s use of the Domain Name may be said to amount to non-use, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) points out at section 3.3 that panelists have consistently found that this does not prevent a finding of bad faith. Factors that panelists take into account, whilst looking at all the circumstances, include “(i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put”.

The Domain Name comprises the entirety of the Complainant’s distinctive BDO mark and (ignoring the gTLD) is identical to the United States member of the Complainant’s network; there has been no response to the Complaint; and it is difficult to conceive of any good faith use to which the Domain Name could be put.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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 Domain Name <bdousallp.org> be transferred to the Complainant.

/lan Lowe/

Ian Lowe

Sole Panelist

Date: June 1, 2022