

ADMINISTRATIVE PANEL DECISION

Stichting BDO v. Contact Privacy Inc. Customer 7151571251 / Denny Battista
Case No. D2022-2881

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 7151571251, Canada / Denny Battista, United States.

2. The Domain Name and Registrar

The disputed domain name <accountsreceivable-bdo.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 5, 2022. On August 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 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 August 16, 2022.

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 August 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 7, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on September 26, 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 an international network of financial services firms that dates back to 1963 and provides services in the fields of accounting, taxation, consulting and advice and other professional services under the name BDO, with over 88,000 global employees in 1,617 offices in 167 countries around the world.

The Complainant owns several trademark registrations in 173 territories for various BDO marks, including the following:

- US trademark registration for BDO & design No. 2,699,812, registered on March 25, 2003.
- US trademark registration for BDO No. 4,854,142, registered on November 17, 2015.

The Complainant also owns many domain names comprising its mark BDO, including <bdo.com>, registered on February 27, 1995 and has relied on the Internet as a forum to promote and disseminate information regarding the offerings under the BDO marks, such as accounting, taxation, consulting and other services.

The disputed domain name was registered on July 20, 2022 and resolves to a page displaying an Internet browser error message. The disputed domain name was used to impersonate the Complainant to perpetrate a financial fraud/phishing scam.

5. Parties' Contentions

A. Complainant

The Complainant states that it owns trademark registrations in several jurisdictions for BDO, and that the disputed domain name is nearly identical and confusingly similar to its trademarks, only adding the descriptive terms "accounts receivable" and a hyphen.

According to the Complainant, the inclusion of the descriptive terms "accounts" and "receivable" increases the possibility of confusion by the consumers, since they make reference to a function of the BDO company.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name, is not commonly known by the disputed domain name and it has not acquired any trademark rights related to the disputed domain name. In addition, the Complainant says that its BDO mark is not a generic or descriptive term in which the Respondent might have an interest.

The Complainant informs that the Respondent used a privacy proxy service when registered the disputed domain name and that, although the Respondent is not using the disputed domain name to host a legitimate website, the Respondent has used it to impersonate an employee of the Complainant to perpetrate a financial fraud/phishing scam by soliciting invoice payment totaling USD 98,725.00 from the Complainant's clients or contacts.

Also, the Complainant mentions that:

- due to its worldwide reputation and the ubiquitous presence of the BDO Marks on the Internet, the Respondent was or should have been aware of the BDO marks long prior to registering the disputed domain name.
- the Respondent has not used the disputed domain name for any legitimate purpose.
- the Respondent used the disputed domain name to create a corresponding email address and feature such email address to pose as the Complainant and to perpetrate a financial fraud/phishing scam.

According to the Complainant, the above proves that the Respondent registered and is using the disputed domain name in bad faith to intentionally mislead and confuse the public into believing that the Respondent is associated or affiliated with the Complainant for misleading or fraudulent purposes.

Finally, the Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (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 evidence presented demonstrates that the Complainant is the owner of the trademark BDO in various jurisdictions. Also, the Complainant registered the domain name <bdo.com> and has been using it as its official website for many years. All these registrations predate the registration date of the disputed domain name. So, the Panel finds that the Complainant has trademark rights for purposes of the Policy.

The disputed domain name comprises the Complainant's trademark BDO in its entirety. The addition of the terms "accounts" and "receivable" do not avoid a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

It is the general view among UDRP panels that the addition of merely dictionary, descriptive or geographical words to a trademark in a domain name is normally insufficient in itself to avoid a finding of confusing similarity under the first element of the UDRP. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element. See section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Also, as numerous prior UDRP panels have already recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark BDO.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, there is evidence that the Respondent has used the disputed domain name in connection with illegal activity.

Additionally, the construction of the disputed domain name itself is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1, [WIPO Overview 3.0](#).

Based on the evidence in the Complaint, the Panel finds that the use of the disputed domain name, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of domain names under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark BDO is registered by the Complainant in numerous jurisdictions around the world and has been used for several years.

The disputed domain name is comprised of the BDO trademark in addition to other terms, and the Respondent has no rights or legitimate interests in the disputed domain name. The addition of such terms indeed enhances confusion, since the Complainant's financial services are connected to words such as "accounts" and "receivable".

There is evidence in the Complaint that the disputed domain name was used with the intent to deceive Internet users to believe they were negotiating with the Complainant, by creating an email address to perpetrate a fraud/phishing scam. Therefore, this Panel finds that the Respondent obviously knew of the Complainant's mark when it registered the disputed domain name. Also, this Panel sees no reason for the Respondent to have registered this disputed domain name, taking into account the reputation and the well-known status of the Complainant's business and BDO marks other than to opportunistic bad-faith.

Furthermore, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

The Respondent also used a privacy Whois service to hide its identity, which confirms bad faith registration and use.

This Panel finds that the Respondent's intention of taking undue advantage of the trademark BDO as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed 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 disputed domain name <accountsreceivable-bdo.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: October 4, 2022.