

ADMINISTRATIVE PANEL DECISION

Stichting BDO v. Contact Privacy Inc. Customer 12412517546 / Williams Nicole, BDO USA
Case No. D2022-1033

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 12412517546, Canada / Williams Nicole, BDO USA, United States.

2. The Domain Name and Registrar

The disputed domain name <bdousallpmiami.com> (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 March 25, 2022. On March 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 25, 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 March 28, 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 March 30, 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 March 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on April 29, 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 operates a network of public accounting firms under the BDO mark in 167 countries, including the United States (the Respondent's country), dating back to 1963. The Complainant's BDO mark has been recognised as well known in numerous UDRP cases.

The Complainant owns registrations for its BDO mark in many jurisdictions, including United States Registration No. 4,854,142 BDO in classes 9, 16, 35, 36, 41, 42, and 45, registered on November 17, 2015. The Complainant's primary domain name, <bdo.com>, was registered by the Complainant's affiliated company on February 27, 1995.

The Domain Name was registered on March 18, 2022. The Complainant's evidence establishes that the Domain Name has been used to send emails impersonating the Complainant, offering fake jobs with the Complainant. The Domain Name does not resolve to any website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its BDO mark, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and is being used in bad faith given that the Domain Name has been used to impersonate the Complainant for the purposes of email-based fraud.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's un rebutted evidence establishes that its BDO mark is registered, well known and is wholly contained within the Domain Name as its first and most distinctive element, with the addition of the geographic terms "usa" and "miami" and the well-known company designation "llp". Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms (including geographic and descriptive terms) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its BDO mark was registered and well known, including in the Respondent's country, long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

UDRP Panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation or other types of fraud, as in this case) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13). There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain.

The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Panel has independently established that the Respondent listed the physical address of the Complainant's office in Miami, Florida, as the Respondent's own address in the Whois. This, combined with the composition of the Domain Name and the evidence of email-based fraud, shows a clear intention on the part of the Respondent to target the Complainant at the time of registration of the Domain Name and clearly indicates that the Domain Name was registered in bad faith (*Intesa Sanpaolo S.p.A. v. Intesasanpaolo*, WIPO Case No. [D2009-1550](#)).

As for bad faith use, it is well accepted that use of a domain name to perpetuate fraud constitutes bad faith use ([WIPO Overview 3.0](#) at section 3.4). The Complainant's evidence establishes that the Domain Name has been used for email-based fraud.

The Panel draws adverse inferences from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3), and the use of a privacy proxy service ([WIPO Overview 3.0](#) at section 3.6).

The Complainant has satisfied paragraph 4(a)(iii) 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 Domain Name, <bdousallpmiami.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: May 10, 2022