

ADMINISTRATIVE PANEL DECISION

Stichting BDO v. Sync Uio
Case No. D2023-0597

1. The Parties

The Complainant is Stichting BDO, Netherlands, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Sync Uio, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <bdoglobal.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2023. On February 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 9, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2023, 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 February 16, 2023.

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 February 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 24, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on April 5, 2023. 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 part of an internationally active network of firms providing services in the fields of accounting, taxation, consulting and advice.

The Complainant is the owner of the BDO trademark, which is registered in various jurisdictions, including in the United States, where the Respondent is reportedly located (Annex 1 to the Complaint). Among others, the Complainant is the owner of the United States Trademark No. 4854142 for BDO, registered on November 17, 2015, for goods and services in Classes 9, 16, 35, 36, 41, 42, and 45.

The Complainant further owns and operates various domain names comprising its BDO trademark, such as “bdo.global” and “bdoglobal.com” (Annexes 4 and 5 to the Complaint).

The disputed domain name was registered on October 11, 2022.

The screenshots, as provided by the Complainant, show that the disputed domain name resolved to a website prominently featuring the Complainant’s BDO trademark. Furthermore, the look and feel of the associated website caused the false impression that it was operated or at least authorized by the Complainant (Annex 3.1. to the Complaint).

At the time of the decision, the disputed domain name does not resolve to an active website anymore (Annex 3.2. to the Complaint).

On November 8, 2022, the Complainant sent a letter to the Respondent and tried in vain to solve the dispute amicably by requesting a transfer of the disputed domain name (Annex 9 to the Complaint).

5. Parties’ Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name confusingly similar to its BDO trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the BDO trademark (Annex 1 to the Complaint).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's BDO trademark. The disputed domain name fully comprises the BDO trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where a trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity. In the present case, the mere addition of the term "global" does, in view of the Panel, not serve to avoid a finding of confusing similarity between the disputed domain name and the Complainant's BDO trademark.

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's BDO trademark in a confusingly similar way within the disputed domain name.

In the absence of a Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain name.

The Panel particularly notes that the nature of the disputed domain name along with the content of the previously associated website (reproducing the Complainant's BDO trademark in its entirety), indicates the Respondent's malicious intention to create a risk of affiliation or association with the Complainant and its BDO trademark. It is obvious to the Panel that the disputed domain name is used to impersonate the Complainant, which results in an illicit use that can never confer rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), section 2.13.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is convinced that the Respondent deliberately attempted to create a likelihood of confusion among Internet users for illegitimate purposes, particularly for the following reasons.

At the date of registration of the disputed domain name, the Respondent was apparently well aware of the Complainant and its BDO trademark. It is obvious to the Panel, that the Respondent has deliberately chosen the inherently misleading disputed domain name to target and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

Additionally, the Panel finds that the Respondent is using the disputed domain name in bad faith. The Panel particularly notes that the disputed domain name resolved to a website falsely purporting to be operated by the Complainant or at least with its authorization, probably for fraudulent or at least illegitimate purposes (Annex 3.1. to the Complaint). The Panel concludes that the attempt to impersonate the Complainant is *per se* sufficient evidence of bad faith.

The fact that the disputed domain name does not currently resolve to an active website does not change the Panel's findings in this respect.

Taking the facts of the case into consideration, the Panel believes that this is a typical cybersquatting case, which the UDRP was designed to stop. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, 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 disputed domain name <bdoglobal.org> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: April 19, 2023