

## ADMINISTRATIVE PANEL DECISION

Stichting BDO v. Domains By Proxy, LLC / Name Redacted  
Case No. D2022-1327

### 1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States / Name Redacted<sup>1</sup>, United States.

### 2. The Domain Name and Registrar

The disputed domain name <receivables-bdo.com> (the “Domain Name”) is registered with Wild West Domains, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 13, 2022. On April 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 14, 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 14, 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 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”).

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<sup>1</sup> An identity theft appears to have taken place in this case. In light of the identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the Domain Name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2022. An early Response was filed with the Center on April 21, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on May 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.

As set out below, the Panel is satisfied that the named Respondent, who is recorded in the Whois data of the Registrar, was not responsible for the registration of the Domain Name, and that the Domain Name was registered by a person unknown without the Respondent's knowledge or consent. The Respondent's name has therefore been redacted in this Decision.

#### **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, 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. On April 1, 2022, an email purporting to be sent by an employee of BDO USA LLP to a client of the Complainant demanded payment of an attached invoice. The email was on the face of it sent by "[employee name]@receivables-bdo.com".

#### **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 named Respondent filed an early Response to the Complaint, setting out details of the manner in which it had been notified that the Domain Name had been registered in its name, apparently by an unknown third party having gained access to its Microsoft Exchange account. The Respondent was not responsible for the registration of the Domain Name and had not authorized its registration. The Respondent caused Microsoft to undertake investigations, but Microsoft reported that it was unable to determine who had created the Domain Name. The Respondent emphasized that it was prepared to assist in any necessary action to delete or transfer the Domain Name.

#### **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”) “.com”, the Domain Name comprises the entirety of the Complainant’s BDO trademark together with a hyphen and the word “receivables”. In the view of the Panel, the addition of this term 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**

Neither the named Respondent nor the third party responsible for registration of the Domain Name (together the “Respondent”) could have any 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. The Domain Name has been used for, and/or to attempt to support, fraudulent emails sent in the name of the Complainant in a dishonest attempt to procure payments by deceit. Such activity cannot possibly give rise to rights or legitimate interests in respect of the Domain Name.

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. The Respondent registered the Domain Name for fraudulent purposes including by using it for email addresses such that recipients might be deceived into believing that the Domain Name was being operated by or authorized by the Complainant. The inclusion of the term “receivables” in the Domain Name sought to further the belief that emails were being sent by an employee of the Complainant responsible for receiving funds on the Complainant’s behalf.

Such conduct amounts to paradigm bad faith registration and use of the Domain Name.

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 <receivables-bdo.com> be transferred to the Complainant.

*/lan Lowe/*

**Ian Lowe**

Sole Panelist

Date: June 9, 2022