

ADMINISTRATIVE PANEL DECISION

Stichting BDO, v. Peter Huemerlehner, CHEMiTEC Process Automation GmbH

Case No. D2025-0217

1. The Parties

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

The Respondent is Peter Huemerlehner, CHEMiTEC Process Automation GmbH, Germany.

2. The Domain Name and Registrar

The disputed domain name <bdö.com> (the "Disputed Domain Name") is registered with GoDaddy.com, LLC (the "Registrar"). Note that originally domain names could only comprise standard ASCII characters which would not include "ö". Since about 2003, a system of encoding has been available described as IDN or Internationalised Domain Names which in practical terms allows the inclusion of a wider character set in a domain name, including "ö", if appropriate technical facilities are supported in the Top-Level Domain in question. The Disputed Domain Name could also be represented by the ASCII string <xn--bd-gka.com>. The Panel will use <bdö.com> in this Decision which includes the latter representation.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 21, 2025. On January 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 22, 2025, 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 (Registration Private, Domains By Proxy, LLC,) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 2025, 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 January 28, 2025.

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 January 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 17, 2025. The Respondent sent email communications to the Center on January 28, 2025.

The Center appointed Nick J. Gardner as the sole panelist in this matter on February 24, 2025. 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 part of the BDO network, a global network of independent member firms providing services in accounting, taxation, consulting, and advisory fields. The network has, in total, over 111,000 global employees in more than 1,800 offices in 164 countries around the world, including in Europe, Africa and the Middle East, North and South America, and Asia.

The Complainant and members of the BDO network have been consistently ranked amongst the top accounting firms in the United States and in the world, with more than USD 2.8 billion in revenue in the United States alone and over USD 14 billion in global revenue combined.

The Complainant is the registered owner of over 350 trademark registrations and applications in 173 territories, specifically for various BDO marks including for example United States Registration for BDO (word and design), No. 2,699,812, registered on March 25, 2003. These trademarks are referred to as the “BDO trademark” in this decision.

The Complainant and the member firms belonging to the BDO network also own many domain names corresponding to or containing the term “BDO”, including <bdo.com>, registered on February 28, 1995.

The Respondent appears to be based in Germany. The Disputed Domain Name was registered on January 3, 2025. At the time of this Decision the Disputed Domain Name resolves to a parking page provided by the Registrar. The filed evidence shows that it has previously resolved to a webpage (the “Respondent’s Webpage”) which comprises a soft-focus photograph of a business meeting with a number of individuals sitting round a table. Overlaid at the top of the photograph are the letters “BDO” (without an umlaut above the “o”) and at the centre of the photograph the words “Your trusted partner in business”. Below the photograph is the word “Subscribe”. It is not clear to the Panel whether or not that word is a clickable link and if so, what then happens when clicked. On the right corner of the Respondent’s Website the following is stated: “Powered by GoDaddy Airo” (see further below).

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has rights in the BDO trademark by virtue of its longstanding use and registration of the marks in a number of jurisdictions around the world including use online. Also, the Complainant indicates that its activities and initiatives receive attention in media in many countries worldwide. The Complainant has developed substantial goodwill and reputation in its BDO name and marks.

A number of previous UDRP panels have recognized the value of the Complainant’s trademark and its association with the Complainant. See for example *Stichting BDO v. Bado Unila*, WIPO Case No. [D2018-1011](#) finding that “...the letters ‘bdo’ have no apparent meaning other than to designate the Complainant and the Complainant’s Trade Marks. The Complainant has demonstrated a long standing and widespread use of its name and Trade Mark including in the United States...”.

The Complainant contends that the Disputed Domain Name is nearly identical and confusingly similar to its BDO trademark, as it consists only of the letters “BDO”, with an umlaut above the “o”, and combined with the generic Top-Level Domain (“gTLD”) “.com”.

The Complainant contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name as the BDO trademark precedes the registration of the Disputed Domain Name by many years. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Disputed Domain Name in connection with a bona fide offering of goods or services. Moreover, the Respondent is not commonly known by the Disputed Domain Name.

The Complainant has not authorized the Respondent to use the BDO trademark in the Disputed Domain Name. The Respondent was fully aware of the Complainant’s reputation and the Complainant’s trademark rights on the BDO mark when the Respondent registered the Disputed Domain Name. The BDO trademark is well known, and it is inconceivable that the Respondent registered the Disputed Domain Name without knowing of the Complainant’s trademark rights.

The Disputed Domain Name was registered and is being used in bad faith by the Respondent. The Respondent is posing as the Complainant through use of the Disputed Domain Name that resolves to a webpage that displays the BDO trademark (without umlauts) along with the tagline “[y]our trusted partner in business,” which suggests that this is an official site of the Complainant.

B. Respondent

No formal Response has been filed. However, in an email communication to the Center in English dated January 28, 2025, the Respondent stated “Good day, why I got this email. Please communicate / write in german language to me, as I must use a translator and the mails you sent, is not translated well. I bought a account for an political party which will be named “BDÖ” - BündnisDemokratieÖsterreich. What is wrong with that?”. The Panel will in its discretion treat this email as the Respondent’s Response.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the BDO trademark. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[w]here the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case”. Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the BDO trademark.

The Disputed Domain Name comprises the BDO trademark with the addition of an umlaut above the “o”. The Panel does not regard the addition of the umlaut as a material difference. There are numerous previous UDRP decisions holding that the absence of an umlaut is not a material difference – see for example *Gudrun Sjödén Design Aktiebolag v. Domain Admin, Private Registrations Aktien Gesellschaft / PrivacyProtect.org* WIPO Case No. [D2012-1903](#). The Panel considers exactly the same approach applies to the addition of an umlaut and finds that the Complainant’s trademark is recognizable within the Disputed Domain Name.

It is also well established that the gTLD, in this case “.com”, does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

The Panel therefore considers that the Disputed Domain Name is confusingly similar to the Complainant's BDO trademark. Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been satisfied by the Complainant.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the Complainant to establish that the Respondent has no rights or Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the BDO trademark. The Complainant has prior rights in the BDO trademark which precede the Respondent's acquisition of the Disputed Domain Name. The Complainant has therefore established a prima facie case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Respondent in effect says that (i) it registered the Disputed Domain Name for a political party which will be named "BDÖ – BündnisDemokratieÖsterreich". There are a number of difficulties with this claim by the Respondent. First it is completely uncorroborated by any evidence. In this regard see [WIPO Overview 3.0](#) at section 2.2: "If not independently verifiable by the panel, claimed examples of use or demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services cannot be merely self-serving but should be inherently credible and supported by relevant pre-complaint evidence" and "As expressed in UDRP decisions, non-exhaustive examples of prior use, or demonstrable preparations to use the domain name, in connection with a bona fide offering of goods or services may include: (i) evidence of business formation-related due diligence/legal advice/correspondence, (ii) evidence of credible investment in website development or promotional materials such as advertising, letterhead, or business cards (iii) proof of a genuine (i.e., not pretextual) business plan utilizing the domain name, and credible signs of pursuit of the business plan, (iv) bona fide registration and use of related domain names, and (v) other evidence generally pointing to a lack of indicia of cybersquatting intent. While such indicia are assessed pragmatically in light of the case circumstances, clear contemporaneous evidence of bona fide pre-complaint preparations is required". The Respondent has provided absolutely nothing to support its claim.

The Panel did seek to see whether it was possible to independently verify the Respondent's claim¹. A Google search for "BündnisDemokratieÖsterreich" did not identify any party of that name but did show a party named Demokratisches Bündnis Österreich which uses the acronym DBÖ and which has a web site linked to the domain name <dboe.at>. The Panel notes that by convention the letters "o" and "e" can be used as an alternative to "ö". It therefore seems a party of very similar name to that suggested by the

¹ Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. [WIPO Overview 3.0](#), section 4.8.

Respondent already exists but the acronym for its name is DBÖ not BDÖ. The existence of this party does not provide any credible support for the Respondent's explanation. Further the Respondent's explanation is inconsistent with the contents of the Respondent's Webpage (see above) and wholly fails to explain that webpage and its use of the letters BDO (without an umlaut). Taken as a whole, the Panel declines to accept the Respondent's explanation and concludes the Respondent has not shown it has rights or a legitimate interest in the Disputed Domain Name. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

The Panel notes that the filed evidence shows that the Complainant uses the term BDO on a very substantial international scale and is extremely well known. In the present circumstances the fact that the Disputed Domain Name was linked to the Respondent's Webpage which in the Panel's view deliberately seeks to give the impression that it is a webpage associated with the Complainant, leads the Panel to conclude the registration and use were in bad faith.

In reaching this conclusion the Panel has had regard to the fact that the Respondent's Website indicates that it is "Powered by GoDaddy Airo". As the Panel understands it, this is a facility provided by the Registrar which uses some form of artificial intelligence ("AI") program to generate the contents of a website for a given domain name. Exactly how it does this and what parameters it takes into account is not known to the Panel. It does however seem to the Panel more likely than not that the Respondent has the choice to accept or reject whatever content this AI program may generate. The Panel considers that the Respondent remains responsible for the content of the Respondent's Website, even if it has been generated automatically by AI, and irrespective of the Respondent's intervention (if any) in generating such content.

When the Respondent's Website is reviewed the following is to be noted. The use of the acronym BDO (without an umlaut) is clearly not coincidental but seems intended to give the impression the site is associated with the Complainant. A bona fide web page for the Disputed Domain Name would use BDÖ. The depiction of a business meeting and use of the phrase "Your trusted partner in business" in the Panel's view is designed to give the impression to a visitor that the site is operated by the Complainant. See below for a discussion as to the Respondent's motives.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

The Panel does not know enough about the detail of the Respondent's Webpage, and in particular what the "subscribe" text does. Conceivably it might be facilitating the deceptive collection of customer data. If that was the case that would clearly lead to a finding of bad faith registration and use. However, the Panel does not think the evidence clearly establishes that the Respondent is necessarily engaged in deceptive data collection. The evidence simply shows the Disputed Domain Name resolves to a webpage which gives the impression it is associated with the Complainant. That webpage may have been generated by an AI program. The evidence is not however clear as to how that webpage behaves and whether it has any facilities that collect customer data. The Panel is therefore unclear as to the Respondent's motives.

The Panel notes that in any event the list at paragraph 4(b) of the Policy is non exhaustive, and the Panel finds the Respondent more likely than not registered and used the Disputed Domain Name in bad faith for the purposes of the Policy. This is particularly so given that the Respondent's account in his informal email that he registered the Disputed Domain Name for use by a political party is wholly inconsistent with the content of the Respondent's Webpage. Further the Respondent has not sought to provide any explanation at all of the content of the Respondent's Webpage, and even if the content was generated using an AI tool, the Respondent cannot disclaim the responsibility over the Respondent's Webpage.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. Accordingly, the third condition of paragraph 4(a) of the Policy has been fulfilled.

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, <bdö.com>, represented by the ASCII string <xn--bd-gka.com>, be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: March 3, 2025