

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Domain Administrator,
See PrivacyGuardian.org / PostFlow
Case No. D2022-0918

1. The Parties

The Complainant is The Commissioners for HM Revenue and Customs, United Kingdom (“UK”), represented by Demys Limited, UK.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States / PostFlow, Dominica.

2. The Domain Name and Registrar

The disputed domain name <hmrc-gov-uk.org> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 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 March 22, 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 23, 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 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2022.

The Center appointed Peter Wild as the sole panelist in this matter on May 9, 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 a department of the UK Government, responsible for, amongst other things, the collection of taxes. It was created in its present form by The Commissioners for Revenue and Customs Act, 2005, and its predecessor entities go back for centuries. The Complainant and its activities can be found on a website contained within the UK Government's official portal, which can also be accessed using the domain name <hmrc.gov.uk>.

The Complainant is the owner of several UK trademarks including UK trademark registration HMRC, filed on November 5, 2007, registered on March 28, 2008, for goods and services in classes 9, 16, 35, 36 38, 41, and 45 (registration number UK00002471470) (the "HMRC Trademark").

The HMRC Trademark pre-dates the registration of the disputed domain name, which was registered on July 6, 2021.

The Complainant alleges that it also has unregistered rights in the initials "HMRC" being very well known in the UK and around the world as "hmrc".

The disputed domain name was registered on July 6, 2021, and does not, at the time of this decision, resolve to an active website. However, the Complainant provides evidence that the disputed domain name has also Mail eXchanger records configured, which means that it is capable of receiving emails.

On March 7, 2021, the Complainant sent a cease and desist letter to the Respondent, to which it did not receive a response.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain name is confusingly similar to the Marks in that it only differs by the addition of the words "gov" and "uk", along with the generic Top-Level Domain ("gTLD") ".org", which do not distinguish the disputed domain name from Complainant's trademarks. According to the Complainant, these terms intend to create an impression that the disputed domain name is connected to an official UK government website. The common element "hmrc" is the only distinctive element and therefore creates a danger of confusion.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name:

- the Respondent, to the best of the Complainant's knowledge, is not known by the names "HMRC" or "HMRC gov uk", the Complainant has never granted permission to the Respondent to use its trademarks in connection with a domain name and the Respondent does not own any trademarks that incorporate or are similar or identical to the terms "hmrc" or "hmrc gov uk";
- the Respondent did not reply to the cease and desist letter sent by the Complainant.

The Complainant also contends that the disputed domain name was registered and is being used in bad faith, for the following reasons:

- the passive holding of the disputed domain name, given the circumstances of the case (e.g., the fact that the Complainant is very well known in the UK and beyond and that the Marks have been used for many years prior to the registration of the disputed domain name, the fact that the Respondent failed to reply to the Complainant's cease and desist letter, the concealment by the Respondent of its details from the public WhoIs, and the implausibility of any good faith use to which the domain name may be put, especially so given the inclusion of the term "gov uk" which, in this context, could only reasonably relate to the Complainant and its activities);

- the use of a privacy service by the Respondent;

- the disputed domain name is configured with Mail eXchanger records, so that it is possible that the disputed domain name has also been used in relation to email services.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

(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

This Panel finds that the Complainant has trademark rights in HMRC, which predate the registration of the disputed domain name. The Complainant has also provided evidence showing that third parties in the United Kingdom and elsewhere often refer to the Complainant as HMRC.

The disputed domain name fully incorporates the Complainant's HMRC Trademark in which the Complainant has exclusive rights. It has been repeatedly held in prior decisions under the UDRP that a disputed domain name which contains a complainant's well-known trademark together with the mere addition of other terms is confusingly similar to said trademark.

The Panel then considers that the mere addition of the terms "gov" and "uk", immediately following the Complainant's HMRC Trademark do not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name.

Finally, it is well established in prior decisions under the UDRP that a generic gTLD indicator is irrelevant when comparing a trademark with a disputed domain name. Accordingly, the Panel considers the ".org" gTLD does not prevent a finding of confusing similarity in the circumstances of the present case see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's HMRC Trademark, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests, see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

There is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the term "hmrc". See *VUR Village Trading No. 1 Limited t/a Village Hotels v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1596](#); *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Cash Converters Pty Ltd v. John Cox*, WIPO Case No. [D2013-0721](#); and *The Commissioners for HM Revenue and Customs v. Wei Wang, APIS*, WIPO Case No. [D2017-1492](#).

This Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, in view of the circumstances of this case, including the following factors:

- (i) there is no evidence that the Respondent has been licensed or authorized to use the disputed domain name by the Complainant;
- (ii) there is no evidence that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial use;
- (iii) there is no evidence that the Respondent has been commonly known by the disputed domain name;
- (iv) despite having received a communication from the Complainant before the proceedings and official communication in the proceedings, the Respondent did not respond;
- (v) the nature of the disputed domain name is such to carry a risk of implied affiliation to the Complainant, considering the descriptive nature of the added terms "gov" and "uk" in relation to the Complainant's status as a department of the UK government.

For all the foregoing reasons, this Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Accordingly, the Panel finds that the Complainant has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the HMRC Trademark at the time the Respondent registered the disputed domain name. The HMRC Trademark is an abbreviation with no meaning in the English language. Furthermore, there is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name incorporating the HMRC Trademark. Adding the terms "uk" and "gov" both of which specifically refer to the UK government of which the Complainant is a part, implies that there was an intention to create a likelihood of confusion between the disputed domain name and the Complainant and its HMRC Trademark.

In the circumstances of the present case, the Panel notes the following factors which constitute indicators of the Respondent's bad faith despite the otherwise passive holding for the disputed domain name:

- the Complainant's HMRC Trademark is well known in the UK and beyond, as evidenced by the Complainant;

- the Respondent has provided no evidence of any good faith use of the disputed domain name;
- the Respondent did not reply to the Complainant's communication before the proceedings;
- the Respondent has used a privacy service;
- the Respondent has Mail eXchanger records attached to the disputed domain name, raising the potential risk that the Respondent may use the confusingly similar disputed domain name for fraudulent email correspondence (*Les Parfumeries Fragonard v. Sunny Elemba*, WIPO Case No. [D2020-1648](#); *Tetra Laval Holdings & Finance S.A. v. Prince Amin, Access Point Technologies*, WIPO Case No. [D2016-1052](#)); and
- the Respondent did not reply to the Complainant's contentions in the UDRP procedure.

Accordingly, the Panel finds that the Respondent has engaged in bad faith. Accordingly, the Panel finds that the Complainant has fulfilled the requirements of 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, <hmrc-gov-uk.org> be transferred to the Complainant.

/Peter Wild/

Peter Wild

Sole Panelist

Date: May 23, 2022