

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Alex Paugetin
Case No. D2022-2246

1. The Parties

Complainant is The Commissioners for HM Revenue and Customs, United Kingdom, represented by Demys Limited, United Kingdom.

Respondent is Alex Paugetin, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <officialhmrc.online> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 Respondent of the Complaint, and the proceedings commenced on June 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 19, 2022.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on July 22, 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

Complainant is owner of registration of the word trademark HMRC on the register of the UK Intellectual Property Office (UKIPO), registration number 2471470, registration dated March 28, 2008, in international classes (ICs) 9, 16, 35, 36, 41 and 45. Complainant also is owner of registration of the device and word trademark HM REVENUE & CUSTOMS, registration number 3251234, registration dated December 29, 2017 in ICs 9, 16, 35, 36, 41 and 45. The device associated with the aforesaid word and device trademark consists of a crown situated within a circle.

Complainant is a non-ministerial department of the United Kingdom government responsible for the collection of taxes, the payment of some forms of state support and the administration of other regulatory regimes. Complainant is responsible for the collection of direct taxes (such as income tax and corporate tax), as well as indirect taxes such as value-added tax (VAT). Complainant maintains a substantial public-facing presence on the Internet, including allowing for the filing of certain tax returns online. Complainant can be accessed through UK government official portal,¹ and through the domain name <hmrc.gov.uk>.

As a government entity collecting funds from individuals and businesses, as well as dispersing funds to individuals and businesses, Complainant and its “customers” are targeted by a wide range of deceptive or fraudulent practices undertaken by third parties disguising themselves as Complainant. Such practices include the creation of websites designed to appear as operated by Complainant, and the use of deceptive emails in phishing schemes intended to obtain confidential information and/or to defraud individuals, businesses and Complainant of funds. Complainant has provided a body of news service reports describing these deceptive or fraudulent practices.² They may be undertaken in sophisticated ways. It may be difficult for individuals and businesses targeted by these practices to differentiate between genuine communications from and with Complainant, on one hand, and communications with imposters on the other.

Complainant has successfully asserted its trademark rights in over 60 UDRP administrative proceedings.³

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to that verification, the disputed domain name was registered on January 11, 2022, and Respondent remained registrant as of the date of the verification.

The disputed domain name was directed by Respondent to a webpage displaying an index of file folders.⁴ The folder names appear in substantial part to be associated with various domain names, including a domain name substantially similar (*i.e.*, <officialhmrc.org>) to the disputed domain name. The factual record does not indicate

¹ At “<https://www.gov.uk/government/organisations/hm-revenue-customs2>.”

² See Rachel Wait, *How scammers take advantage of stressed-out taxpayers*, The Guardian, Jan. 26, 2020; Jessica Winch, and agencies, *HMRC warns of scam tax rebate emails*, The Telegraph, Apr. 11, 2019; Cara McGoogan, *Thousands of online tax returns targeted by fraudsters*, The Telegraph, Feb. 8, 2016; Gareth Corfield, *UK taxman has domain typo-squatter stripped of HMRC addresses*, The Register, Jan. 15, 2018.

³ See recently, *e.g.*, *The Commissioners for HM Revenue and Customs v. J. Lindfors*, WIPO Case No. [D2022-0956](#) <refundhmrc.com>; *The Commissioners for HM Revenue and Customs v. 1&1 Internet Inc / Beverly Czajka*, WIPO Case No. [D2022-0922](#) <revenue-hmrc.com>, and; *The Commissioners for HM Revenue and Customs v. Name Redacted*, WIPO Case No. [D2022-0921](#) <online-hmrc.com>.

⁴ As of the date of this decision, the previously displayed webpage and content is no longer accessible. Panel visit of August 2, 2022. Screenshots of displayed content were furnished by Complainant (as annex to the Complaint).

whether the content of the relevant folders was accessible to the public. The probable explanation for the webpage display is a coding error by Respondent. It is unlikely that Respondent intended to publicly display an index of folders.⁵

Complainant has provided evidence that the disputed domain name is associated with an MX record.⁶

The registration agreement between Respondent and the Registrar subjects Respondent to dispute settlement under the Policy. The Policy requires that domain name registrants submit to a mandatory administrative proceeding conducted by an approved dispute resolution service provider, one of which is the Center, regarding allegations of abusive domain name registration and use (Policy, paragraph 4(a)).

5. Parties' Contentions

A. Complainant

Complainant alleges that it owns rights in the trademarks HMRC and HM REVENUE & CUSTOMS, as well as unregistered rights in HMRC, and that the disputed domain name is confusingly similar to those trademarks.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent has not been commonly known by Complainant's HMRC trademark or the disputed domain name; (2) Respondent is not a licensee of Complainant nor is it otherwise authorized to use Complainant's trademark in the disputed domain name or elsewhere; (3) Respondent's passive holding of the disputed domain name does not establish rights or legitimate interests; (4) Respondent failed to respond to a cease-and-desist demand from Complainant.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) Respondent is passively holding the disputed domain name in circumstances that evidence bad faith, including that Complainant's trademark is distinctive and well known, Respondent failed to provide a response to the Complaint, and it is inconceivable that Respondent could have registered the disputed domain name with good faith intentions, and; (2) Respondent's configuration of an MX record makes it possible for Respondent to use the disputed domain name in an email address likely to confuse consumers into believing that the email originated from Complainant.

Complainant requests the Panel to direct the registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

It is essential to Policy proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, *e.g.*, Rules, paragraph

⁵ Other than a suggestion by Complainant of the probable reason behind the folder index display, the record in this proceeding does not establish a reason for the display.

⁶ Result from DNSChecker, DNS Lookup, screenshot annexed to Complaint.

2(a)).

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of registration. Courier delivery of the Complaint to Respondent was not successful despite multiple attempts by the courier to complete delivery. There is no indication of problems with the transmission to Respondent of email. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) 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.

Each of the aforesaid three elements must be proved by a complainant to warrant relief.

A. Identical or Confusingly Similar

Complainant has provided evidence of rights in the trademarks HMRC and HM REVENUE & CUSTOMS based on registration at the UKIPO and use in the United Kingdom (see Factual Background supra). Respondent has not challenged Complainant's assertion of trademark rights. The Panel determines that Complainant owns rights in the trademarks HMRC and HM REVENUE & CUSTOMS.

For purposes of assessing confusing similarity, the Panel does not consider it necessary to refer to HM REVENUE & CUSTOMS.

The disputed domain name directly and fully incorporates Complainant's HMRC trademark, preceded by the term "official". The direct and full incorporation of Complainant's trademark by Respondent in the disputed domain name is sufficient to establish confusing similarity within the meaning of the Policy. The addition in the disputed domain name of the term "official" and the top-level domain ".online" do not prevent a finding of confusing similarity. The Panel determines that the disputed domain name is confusingly similar to Complainant's HMRC trademark.

Complainant has established that it owns rights in the trademark HMRC and that the disputed domain name is confusingly similar to that trademark. This holding is without prejudice to Complainant's rights in the trademark HM REVENUE & CUSTOMS.

B. Rights or Legitimate Interests

Complainant's allegations to support Respondent's lack of rights or legitimate interests in the disputed domain name are outlined above in section 5.A, and the Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the disputed domain name.

Respondent has not replied to the Complaint, and has not attempted to rebut Complainant's *prima facie* showing of lack of rights or legitimate interests.

Respondent's use of the disputed domain name to display an index of file folders substantially associated with domain names does not establish rights or legitimate interests in favor of Respondent. Such a display

does not constitute a *bona fide* offering of goods or services. It does not establish that Respondent has been commonly known by the disputed domain name. The use by Respondent of the disputed domain name confusingly similar to Complainant's trademark to display a folder index appears most likely to be the result of a coding error. There is no evident intent or purpose to the display. This does not in any event constitute a legitimate noncommercial or fair use sufficient to establish rights or legitimate interests in the disputed domain name.

Respondent's use of the disputed domain name does not otherwise manifest rights or legitimate interests.

The Panel determines that Complainant has established that Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, Complainant must demonstrate that the disputed domain name "has been registered and is being used in bad faith" (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy states that "for the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith". These include, "(i) circumstances indicating that [the respondent has] registered or [has] 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 [the respondent's] documented out-of-pocket costs directly related to the domain name; ... or (iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location".

It is implausible that Respondent was unaware of Complainant and its HMRC trademark when it registered the disputed domain name. Complainant is a department of the UK government responsible for collecting tax revenues and making payments. It is frequently referenced in published media by its HMRC trademark, including on the Internet. Complainant's HMRC trademark is a distinctive combination of letters transposed from the longer name of the UK Department, HM REVENUE & CUSTOMS, also Complainant's trademark. A simple Google search of the term HMRC prominently identifies Complainant. The disputed domain name situates the term "official" before Complainant's trademark, evidencing that Respondent recognized the link between Complainant and its activities when it registered the disputed domain name.

Complainant and its "customers" are the frequent targets of illicit online activity, including through deceptive emails intending to elicit sensitive personal and business data and/or to fraudulently obtain payments from Complainant and its customers. This situation creates a high risk from registration and use of the disputed domain name that Respondent deliberately designed to give the impression of being associated with Complainant. Such risk includes use of the disputed domain name as the domain address for transmission and receipt of email. The disputed domain name has been associated with an MX record which enables its use as an email domain address. The risk also includes the possibility of establishment by Respondent of a website associated with the disputed domain name that would solicit data or otherwise seek to take wrongful advantage of an apparent association with Complainant.

Respondent has not attempted to justify its registration and use of the disputed domain name. Under the circumstances here, the Panel considers it highly unlikely that Respondent could have provided a good faith explanation for registration and use. In any event, Respondent did not. The Panel considers that Respondent's registration and use of the disputed domain name which deliberately adopts the appearance of "official" association with Complainant is in bad faith because of the manifest and heightened risk that the disputed domain name will be used by Respondent to secure commercial gain through a use intended to deceive Internet users. This might include Respondent's transmission of deceptive emails and/or Respondent's establishment of a website presence, either or both soliciting valuable data and/or the fraudulent conveyance of funds.

The Panel finds that Complainant has demonstrated that Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraph 4(b) 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, <officialhmcrc.online> be transferred to Complainant.

/Frederick M. Abbott/
Frederick M. Abbott
Sole Panelist
Date: August 4, 2022