

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Sara Derm, happy

madam rhite right can

Case No. D2023-2894

1. The Parties

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

The Respondent is Sara Derm, happy madam rhite right can, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <service-hmrc.support> (the “Disputed Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2023. On July 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 6, 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 (Redacted for Privacy / Whois Agent (932804283), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 7, 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 July 7, 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 July 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2023.

The Center appointed Michael D. Cover as the sole panelist in this matter on August 21, 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 officially recognized as His Majesty's Revenue and Customs or simply HMRC. The Complainant operates as a non-ministerial department within the Government of the United Kingdom, tasked with responsibilities for tax collection, distribution of certain state benefits and the administration of various regulatory frameworks.

The Complainant can trace its recent lineage through the Board of Taxes, which was established under the reign of King Charles II in 1665 and the Board of Inland Revenue, created through the Inland Revenue Board Act 1849. The Complainant, as it exists today under its current name, came into being in April 2005, as a result of the merger between the Inland Revenue and HM Customs & Excise and this merger was formalized in the Commissioners for Revenue and Customs Act 2005.

The Complainant is entirely responsible for managing and gathering direct taxes in the United Kingdom, which encompass Income Tax, Corporation Tax, Capital Gains Tax and Inheritance Tax. Additionally, the Complainant oversees the collection of indirect taxes, such as Value Added Tax, Excise Duties, Stamp Duty Land Tax, as well as environmental taxes, such as climate change and aggregates levy and landfill tax. The Complainant also is responsible for the collection of National Insurance Contributions, the distribution of Child Benefit and certain other forms of state support, including the Child Trust Fund. The Complainant is also involved in processing payments for Tax Credits and ensuring enforcement of the National Minimum Wage.

As the Complainant is the tax authority of the United Kingdom Government, the Complainant serves as a direct point of contact and provider of services for nearly every individual and business in the United Kingdom. The Complainant operates a website within the United Kingdom Government's official portal at "www.gov.uk/government/organisations/hm-revenue-customs/about", which can also be accessed through the domain name <hmrc.gov.uk>.

The Complainant is the proprietor of several United Kingdom-registered trademarks, these including the following:

Number	Trademark	Registration Date	International Classes
2471470	HMRC	March 28, 2008	9,16, 35, 36, 41 and 45
3251234	HM REVENUE & CUSTOMS	December 29, 2017	9,16, 35, 36, 41 and 45

The Respondent had not allowed its details to be shown on the public Whois and was using a privacy service.

The Complainant had written to the Respondent on July 4, 2023, in an attempt to resolve this matter in an amicable way but no timely response was received.

The Disputed Domain Name does not resolve to an active website and is passively held. The Disputed Domain Name was registered on June 9, 2023.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Identical or Confusingly Similar

The Complainant notes that its United Kingdom registered trademark No. 2471470 HMRC predates the date of registration of the Disputed Domain Name by approximately 15 years.

The Complainant also sets out that it enjoys unregistered rights in its trademark HMRC and contends that it is very well known in the United Kingdom and around the world as HMRC, and produces in support of this contention at Annex 08 and Annex 09 to the Complaint screenshots of various websites, including the search results from Google for "HMRC". The Complainant also references and exhibits several articles in Article Bundle B from third party publications, which refer to the Complainant, the initials HMRC and other terms by which the Complainant is known.

The Complainant then goes on to submit that the Disputed Domain Name is confusingly similar to its trademarks, in that it only differs by the addition of the generic, dictionary word term "service". The Complainant also submits that, viewed as a whole, the Complainant's trademark is the most prominent, dominant and distinctive element of the Disputed Domain Name and that, when combined with the Complainant's well-known trademark, the addition of the adornment "service" does not dispel any possibility of confusion and the Complainant avers that the Disputed Domain Name is confusingly similar to its trademarks.

The Complainant draws the Panel's attention to *Carl Mahr Holding GmbH v. Aleksandr Grigorev*, WIPO Case No. [D2022-0461](#), in which the Panel held "the addition of the term 'service' does not prevent confusing similarity between the Domain Name and the Complainant's trademark".

With regard to the generic Top-Level Domain ("gTLD"), the Complainant notes that the gTLD ".support" is required only for technical reasons and can be ignored for the purposes of comparison of the Disputed Domain Name to the Complainant's trademarks.

The Complainant concludes that the Disputed Domain Name is, therefore, confusingly similar to a trademark or service mark in which it has rights per paragraph 4(a)(i) of the Policy.

Rights or Legitimate Interests

The Complainant contends that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and, accordingly, the Complainant states that it seeks to make out a *prima facie* case to demonstrate that the Respondent does not have rights or legitimate interests in the Disputed Domain Name.

The Complainant states that it has found no evidence that the Respondent has been commonly known by the names HMRC or Service HMRC, prior to or since the registration of the Disputed Domain Name. The Complainant continues that the Respondent is not a licensee of the Complainant and has not received any permission, consent or acquiescence from the Complainant to use its name or marks in association with the Disputed Domain Name at all. The Complainant also states that it has found no evidence that the Respondent has ever traded or operated as HMRC or Service HMRC.

With regard to a possible *bona fide* offering of goods or services, the Complainant notes that the Disputed Domain Name resolves to an inactive website and that this constitutes passive holding and, as such, the Disputed Domain Name has not been used in connection with a *bona fide* offering of goods or services.

Finally, under this head, the Complainant observes that the Respondent did not reply to the communication sent to the Respondent by the Complainant's agent and asserts that the Respondent's non-response and failure to give an explanation to the Complainant's assertions is an admission of the Complainant's contentions.

In these circumstances, as the Complainant puts it, taken singly or cumulatively, the Complainant asserts that it has established a *prima facie* case along the lines anticipated by section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

Registered and Used in Bad Faith

The Complainant contends that the Disputed Domain Name was registered and is being used in bad faith.

The Complainant repeats that the website associated with the Disputed Domain Name is passively held and asserts that such passive holding of the Disputed Domain Name constitutes bad faith. Referring to section 3.3 of the [WIPO Overview 3.0](#), the Complainant notes that it is very well known both in the United Kingdom and beyond, that the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good faith use, that the Respondent was concealing its identity by the use of a privacy service and that it was implausible that there could be any good faith use to which the Disputed Domain Name could be put.

For all these reasons, the Complainant contends that the Disputed Domain Name likely to have been registered and is being used in bad faith.

The Remedy requested by the Complainant

The Complainant requests that the Panel issue a Decision that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The Complainant must establish on the balance of probabilities that the Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in the Disputed Domain Name; and that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown registered rights in respect of its trademark HMRC for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the Disputed Domain Name and, therefore, the mark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the term “service” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

While the gTLD “.support” may be relevant to panel assessment of the second and third elements, it is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Panel accepts that the Respondent has not been authorized, licensed or otherwise permitted by the Complainant to register or use the Disputed Domain Name.

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the Respondent. As such, where a complainant makes out a *prima facie* case that a respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name, by, before any notice to the Respondent of the dispute, making use or demonstrable preparations to use the Disputed Domain Name or a name corresponding to it in connection with a *bona fide* offering of goods or services nor has the Respondent been commonly known by the Disputed Domain Name nor has the Respondent made a legitimate noncommercial use or fair use of the Disputed Domain Name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark at issue.

Based on the available record, the Panel finds the second element of the Policy, paragraph 4(a)(ii), has been established and that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of

distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademark HMRC, and the composition of the Disputed Domain Name, and finds that in the circumstances of this case, the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy. It is a reasonable inference that the Respondent, located in the same country as the Complainant, knew of the Complainant and its well-known trademark HMRC at the time when the Respondent registered the Disputed Domain Name and that the Respondent can have had no other reason to register the Disputed Domain Name other than for the significance of the HMRC element, which is the dominant part of the Disputed Domain Name and which is reproduced in its entirety in the Disputed Domain Name.

Based on the available record, the Panel finds the third element of the Policy has been established and that the Respondent has registered and is using the Disputed Domain Name in bad faith and the provisions of the Policy, paragraph 4(a)(iii) have been met.

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 <service-hmrc.support> be transferred to the Complainant.

/Michael D. Cover/
Michael D. Cover
Sole Panelist
Date: September 1, 2023