

## **ADMINISTRATIVE PANEL DECISION**

The Commissioners for HM Revenue and Customs v. Privacy Service  
Provided by Withheld for Privacy ehf / Trust International  
Case No. D2022-0687

### **1. The Parties**

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

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Trust International, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <taxpaymenthrc.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2022. On March 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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 Complainant on March 2, 2022 providing the registrant and contact information disclosed by the Registrar, inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 2, 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 Respondent of the Complaint, and the proceedings commenced on March 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 25, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on March 29, 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, The Commissioners for HM Revenue and Customs, 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 an organ from the United Kingdom Government to whom every British citizen should be a customer at some point.

Complainant is responsible for collecting direct, indirect, environmental, landfill and other taxes, besides supporting national causes to the United Kingdom such as the Child Trust Fund and enforcement of the National Minimum Wage. These services have been practiced by Complainant since the founding of the Board of Taxes, in 1665.

Complainant owns trademark registrations for the signs HMRC and HM REVENUE & CUSTOMS, as can be seen below:

Registration No.	Trademark	Jurisdictions	International Classes	Date of Registration
2471470	HMRC	United Kingdom	9, 16, 35, 36, 41 & 45	March 28, 2008
3251234	HM Revenue & Customs (device)	United Kingdom	9, 16, 35, 36, 41 & 45	December 29, 2017

Complainant is well known in the United Kingdom, and around the world as HMRC (initials for “Her Majesty’s Revenue & Customs”, or “HM Revenue & Customs”).

The disputed domain name <taxpaymenthmrc.com> was registered on November 26, 2021, and resolves to an inactive webpage.

#### 5. Parties’ Contentions

##### A. Complainant

Complainant pleads that the disputed domain name <taxpaymenthmrc.com> is confusingly similar to its registered trademarks HMRC and HM Revenue & Customs, since it fully incorporates Complainant’s trademark HMRC (which stands for its tradename, HM Revenue & Customs).

Complainant affirms that Respondent creates a confusion, considering specially that the disputed domain name uses the trademark HMRC in its entirety with the addition of the generic phrase “tax payment”, as consumers may believe that the disputed domain name is linked to Complainant. Complainant also notes that the phrase “tax payment” is inherently associated with Complainant and its activities, since the Complainant is the United Kingdom’s tax authority.

Therefore, according to Complainant, the disputed domain name presents a high risk of confusion to consumers, who will likely believe it is confusing similarity to Complainant’s trademark HMRC, fulfilling

paragraph 4(a)(i) of the Policy and paragraph 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademark HMRC as a domain name, nor is Respondent associated with Complainant.

Complainant observes that the website which resolves from the disputed domain name is inactive, which, according to previous UDRP decisions (such as *Microsoft Corporation v. Charilaos Chrisochou*, WIPO Case No. [D2004-0186](#)), indicates the lack of rights or legitimate interests, and *bona fide* in the use of the disputed domain name.

Furthermore, Complainant notes that Respondent has not responded to any of the Complainant's contentions.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules has been fulfilled.

Moreover, Complainant states that (i) its trademark HMRC is well known for many years prior to the registration of the disputed domain name; (ii) Respondent did not respond to any of Complainant's contentions; (iii) Respondent redacted or allowed the redaction of concealing its identity; (iv) it is implausible that Respondent would use a domain name composed by Complainant's trademark HMRC with the addition of the phrase "tax payment" without bad faith.

Complainant finally argues that the use of a privacy service for the registration of the disputed domain name is indicative of bad faith.

Thus, the requirements for bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(a)(iii) of the Policy.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

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

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

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

### **A. Identical or Confusingly Similar**

Complainant has duly proven that it owns prior trademark rights for HMRC and HM REVENUE & CUSTOMS, and that the disputed domain name <taxpaymenthmrc.com> is constituted by the trademark HMRC in its entirety with the addition of the words “tax” and “payment”.

The addition of the words “tax” and “payment” does not prevent a finding of confusing similarity with Complainant’s trademark HMRC as the trademark HMRC is fully integrated in the disputed domain name.

Thus, the Panel finds that the disputed domain name <taxpaymenthmrc.com> is confusingly similar to Complainant’s trademark, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

## **B. Rights or Legitimate Interests**

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) as follows: “[w]hile 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 the 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.”

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant’s contentions, the Panel has considered Complainant’s un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name <taxpaymenthmrc.com>.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* that could demonstrate rights or legitimate interests, since the evidence shows that the disputed domain name <taxpaymenthmrc.com> resolves to a website which is currently inactive, as duly proven by the Annex 05 to the Complaint.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

## **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant’s trademark HMRC, plus the addition of the words “tax” and “payment” referring to Complainant’s services. The Panel finds that it is duly demonstrated that Respondent was aware of Complainant’s rights to the trademark HMRC at the time of the registration – as Complainant enjoys a worldwide reputation with the use of the referred trademark.

With that in sight, Panel finds that Respondent registered the disputed domain name with the intention of attracting Internet users in search of authentic HMRC services.

Moreover, the Panel finds that the words “tax” and “payment” that accompany the trademark HMRC in the

disputed domain name consist of a reference that is linked with the services provided by Complainant, which indicates that the use of the trademark HMRC in a domain name that is unauthorized by the Complainant will most likely be of bad faith.

In addition, the registration of the disputed domain name in the present circumstances allows a finding of bad faith registration and use under the passive holding doctrine – as can be seen on Annex 05 to the Complaint, the disputed domain name resolves to a website which is inactive. As discussed in *Telstra Corporation Limited v. Nuclear Marshmallows*, [WIPO Case No. D2000-0003](#), there are five circumstances that indicate if the passive holding of a domain name could be regarded as bad faith:

“(i) the Complainant’s trademark has a strong reputation and is widely known, as evidenced by its substantial use [...],  
(ii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name,  
(iii) the Respondent has taken active steps to conceal its identity, by operating under a name that is not a registered business name,  
(iv) the Respondent has actively provided, and failed to correct, false contact details, in breach of its registration agreement, and  
(v) taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.”

Considering all of the items listed above in the panel’s decision from the above-cited case, this Panel finds that items (i), (ii), (iii), (iv), and (v) are present to this case, since (i) Complainant enjoys a well-known reputation for the trademark HMRC; (ii) the Respondent has not responded to Complainant’s contentions, failing to provide evidence of the use in good faith of the disputed domain name; (iii) Respondent has adopted the use of a privacy service, concealing its identity on the act of registering the disputed domain name; (iv) Respondent’s contact details only contain a city, state and country; and (v) there is no plausible use of the disputed domain name that would not represent bad faith, especially considering that it is composed of Complainant’s trademark HMRC with the addition of the words “tax” and “payment”, which are linked to the services provided by Complainant. Thus, the circumstances of the present case strongly indicate that the disputed domain name is being passively held as an act of bad faith.

Finally, Respondent has not replied to Complainant’s cease and desist letter nor the Complaint, under the circumstances of this case, further indicates bad faith.

In light of the above, the Panel finds that the disputed domain name <taxpaymenthmrc.com> has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

## 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, <taxpaymenthmrc.com>, be transferred to Complainant.

/Gabriel F. Leonardos/

**Gabriel F. Leonardos**

Sole Panelist

Date: April 12, 2022