

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. angela medwards
Case No. D2022-2243

1. The Parties

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

The Respondent is angela medwards, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <hmrcsuk-gov.org> 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 June 21, 2022, 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 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 July 1, 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 July 1, 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 July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 12, 2022.

The Center appointed Lyons, Debrett G. as the sole panelist in this matter on August 17, 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 factual findings pertinent to the decision in this case are that:

- (1) the Complainant is a non-ministerial department of the United Kingdom Government responsible for the collection of taxes, the payment of certain forms of state support and the administration of certain regulatory regimes;
- (2) the Complainant is formally known as “Her Majesty’s Revenue and Customs” which is often shortened to “HM Revenue and Customs” or “HMRC”;
- (3) the Complainant is the registered proprietor of United Kingdom Intellectual Property Office (“UKIPO”) registration number 2471470 dated March 28, 2008, for the trade mark, HMRC (the “Trade Mark”); and
- (4) the disputed domain name was registered on April 10, 2022, and has not been used.

5. Parties’ Contentions

A. Complainant

The Complainant asserts trade mark rights in HMRC. It holds a national registration for the Trade Mark and submits that the disputed domain name is confusingly similar to the Trade Mark.

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not known by the domain name and the name has not been used.

The Complainant alleges that the Respondent registered the disputed domain name in bad faith having targeted the Complainant and that there is no plausible good faith use to which the domain name could be put in the future.

The Complainant requests the Panel to order transfer of the disputed domain name.

B. Respondent

The Respondent did not submit a Response.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

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

It is the responsibility of the Panel to consider whether the requirements of the Policy have been met, regardless of the fact that the Respondent failed to submit a response. Having considered the Complaint and the available evidence, the Panel finds the following:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold enquiry – a threshold investigation into whether a complainant has rights in a trade mark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to the trade mark.

Paragraph 4(a)(i) of the Policy does not distinguish between registered and unregistered trade mark rights. It is accepted that a trade mark registered with a national or international trade mark authority is evidence of trade mark rights for the purposes of the Policy.¹ The Complainant provides evidence of its registration of the Trade Mark with the UKIPO, a national authority, and so the Panel finds that the Complainant has trade mark rights.

The Complainant submits that the disputed domain name is confusingly similar to the Trade Mark. In particular, it argues that the disputed domain name:

“... only differs by the additions of the letter ‘s’, ‘UK’, seemingly in this context an initialism of ‘United Kingdom’, and the generic term ‘gov’, presumably in this context a contraction of the word ‘government’. By virtue of it being the United Kingdom’s governmental tax authority the Complainant contends that the terms ‘UK’ and ‘gov’ are inherently associated with the Complainant and its activities.

The Complainant further notes that ‘gov’ is a term commonly used by governments to denote a website related to governmental business. ... Viewed as a whole, the Complainant’s mark is the most prominent, dominant, and distinctive element of the disputed domain name.”

The Panel is in complete agreement with those submissions. For the purposes of comparing the disputed domain name with the Trade Mark, the generic Top-Level Domain (“gTLD”) “.com” can be disregarded.² The other additions to the Trade Mark do not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

The Panel finds that the disputed domain name is confusingly similar to the Trade Mark and so finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.³

B. Rights or Legitimate Interests

The Complainant has the burden to establish that the Respondent has no rights or legitimate interests in the disputed domain name. Nevertheless, it is well settled that the Complainant need only make out a *prima facie* case, after which the onus shifts to the Respondent to rebut such *prima facie* case by providing evidence demonstrating rights or legitimate interests in the disputed domain name.⁴

¹ See section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

² See section 1.11.1 of the [WIPO Overview 3.0](#).

³ See, for example, *The Commissioners for HM Revenue and Customs v. Ivan Lukanov*, WIPO Case No. [D2017-2504](#) which concerned the domain names <hmrcinfo-gov.net>, <hmrcreport-gov.com> and <hmrcreports-gov.com>; *The Commissioners for HM Revenue and Customs v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Affin Affin, Affin, Connect*, WIPO Case No. [D2019-1371](#) which concerned the domain name <hmrcukgov.com>; and *The Commissioners for HM Revenue and Customs v. Privacy Service Provided by Withheld for Privacy ehf / Frank Bellucio*, WIPO Case No. [D2022-0686](#) which involved <uk-hmrc-gov.com>, all resulting in transfer to the at-issue domain name(s) to the Complainant and, by implication, findings of confusing similarity of the compared terms under paragraph 4(a)(i) of the Policy.

⁴ See, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

Notwithstanding the lack of a response to the Complaint, paragraph 4(c) of the Policy states that any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate rights or legitimate interests to a domain name for purposes of paragraph 4(a)(ii) of the Policy:

“(i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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 publicly available Whois data obscured from public view the name of the underlying registrant of the disputed domain name due to data protection regulations. In consequence of these proceedings the Registrar identified the registrant as “angela medwards”, which does not suggest that the Respondent might be commonly known by the disputed domain name. The Panel finds no other evidence that the Respondent might be commonly known by the disputed domain name.

There is no evidence of an association between the parties and no evidence that the Respondent has any trade mark rights of its own. Nor is there any evidence of use of the disputed domain name.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Absent a Response, the Respondent has not rebutted this *prima facie* case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and so finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out circumstances which shall be evidence of the registration and use of a domain name in bad faith. They are:

“(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 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 your website or location or of a product or service on your website or location.”

The evidence does not in an obvious way support the application of any of those scenarios, but the Panel finds, as separate matters, registration in bad faith and “use” in bad faith. Further, in addition to its registered rights, the Complainant asserts common law trade mark rights in the initialism “HMRC” since 2005. The Panel accepts by reason of the evidence provided that the initialism “HMRC” is known in the United Kingdom and the Respondent was aware of the Complainant’s Trade Mark at the moment of registration of the disputed domain name.

Against these background findings, and additionally the reasons for the finding of confusing similarity under paragraph 4(a)(i), the Panel concludes that the disputed domain name was chosen and registered in bad faith with the Complainant and the Trade Mark in mind. Further, the Panel is in agreement with the Complainant’s reliance upon section 3.3 of the [WIPO Overview 3.0](#) which notes:

“From the inception of the UDRP, panelists 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.”

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, and (iii) the implausibility of any good faith use to which the domain name may be put.

The Panel is satisfied that each of those factors weights against the Respondent in this case and, notwithstanding the absence of use of the disputed domain name, finds “passive holding” and use in bad faith.

The Panel therefore finds that the Complainant has satisfied the third and final element 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, <hmrcsuk-gov.org>, be transferred to the Complainant.

/Debrett Lyons/

Debrett Lyons

Sole Panelist

Date: August 29, 2022