

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Andrey Maximov
Case No. D2022-2245

1. The Parties

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

The Respondent is Andrey Maximov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <r-hmrc-gov-uk.com> (the “Disputed Domain Name”) is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint in English 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 confirming that the Respondent is listed as the registrant and providing the contact details. On July 5, 2022, the Center sent an email to the Parties in both English and Russian regarding the language of the proceedings. On July 6, 2022, the Complainant reconfirmed its request that English be the language of the proceedings referring to the respective arguments contained in the Complaint in support of its request. The Respondent did not provide any comments regarding the language of the proceedings.

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 the Respondent of the Complaint, and the proceedings commenced on July 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 5, 2022.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on August 16, 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, The Commissioners for HM Revenue and Customs, is formally known as “Her Majesty’s Revenue and Customs”, which is often shortened to “HM Revenue and Customs” or the initialism “HMRC”. The 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. In addition, the Complainant operates a website within the UK Government’s official portal at “<https://www.gov.uk/government/organisations/hm-revenue-customs>”, which can also be accessed through the domain name <hmrc.gov.uk>.

The Complainant is the owner of several United Kingdom trademark registrations for HMRC and HM REVENUE & CUSTOMS, including the trademark registration No. 2471470 registered on March 28, 2008, and trademark registration No. 3251234 registered on December 29, 2017 respectively.

The Disputed Domain Name was registered on April 4, 2022. As of the date of this Decision, the Disputed Domain Name resolves to a parked hosting website of the Registrar.

The Complainant sent a letter to the Respondent on May 20, 2022, requesting for a transfer of the Disputed Domain Name. However, the Respondent did not respond to such letter.

5. Parties’ Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights.

First, the Complainant submits that the Complainant is the owner of the United Kingdom trademark registrations for HMRC, HM REVENUE & CUSTOMS”. Also, the Complainant enjoys unregistered rights in the initialism “HMRC”, which is very well-known in the United Kingdom and around the world.

Second, the Complainant asserts that the Disputed Domain Name is confusingly similar to its trademark HMRC since the Disputed Domain Name incorporates the trademark HMRC in its entirety. The addition of the single letter “r”, the terms “gov” (which is a contraction of the word “government” and commonly used by governments to denote a website related to governmental business) and “UK” (which is a short form of “United Kingdom”) to the Disputed Domain Name is insufficient to avoid confusing similarity since the Complainant’s trademark HMRC is the most prominent and distinctive element of the Disputed Domain Name.

Finally, the Complainant submits that the generic Top-Level Domain (“gTLD”) “.com” can be ignored for the purposes of comparison of the Disputed Domain Name to the Complainant’s trademark.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Complainant seeks to make out a *prima facie* case under section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), to demonstrate that the Respondent does not have rights or legitimate interests in the Disputed Domain Name.

Second, the Complainant contends that there is no evidence that the Respondent has been commonly known by the names HRMC or R HMRC GOV UK prior to or after the registration of the Disputed Domain Name. Also, the Respondent is not a licensee of the Complainant and has not received any permission, consent or acquiescence from the Complainant to use its marks or name in association with the registration of the Disputed Domain Name or, indeed, any domain name, service or product. Further, the Complainant has found no evidence that the Respondent owns any trademarks incorporating or similar/identical with the terms HRMC or R HMRC GOV UK and that the Respondent has ever traded or operated as HRMC or R HMRC GOV UK.

In addition, the Complainant argues that the Respondent cannot obtain or derive any rights or legitimate interests through its passive holding of the Disputed Domain Name.

Finally, the Complainant observes that the Respondent did not reply to the communication sent by the Complainant, which is indicative that the Respondent is unable to put forward any such evidence of actual or contemplated good faith use of the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

First, the Complainant asserts that the passive holding of the Disputed Domain Name constitutes bad faith given the followings:

- the Complainant is very well-known in both the UK and beyond and its trademarks have been used for many years prior to the registration of the Disputed Domain Name;
- the Respondent did not respond to the Complainant's letter and has therefore put forward no evidence of any contemplated good faith use;
- the Respondent's contact details in registration information of the Disputed Domain Name are not redacted but, this does not prevent a finding of passive holding under the UDRP. Moreover, these contact details are not complete, as they do not include a house number and street name;
- Given the fame, widespread use and reputation of the Complainant, it is inconceivable that the Respondent could have registered the Disputed Domain Name without the Complainant's trademarks in mind and with good-faith intentions. This is especially so given the inclusion of the generic adornment "gov" and the initialism "uk".

Second, the Complainant contends that the Disputed Domain Name is configured with MX records and is therefore capable of email communication. The Complainant avers, since the Disputed Domain Name is confusingly similar to the Complainant's name and trademarks, that anyone receiving an email originating from the Disputed Domain Name would reasonably assume that it was sent from the Complainant. This is indicative of probable use of the Disputed Domain Name for the purpose of impersonating Complainant and misleading Internet users.

With the said arguments, the Complainant requests 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

A. Procedural Issues

(I) Language of the Proceeding

The Complaint was filed in English. However, the Registrar confirmed that the language of the Registration Agreement is Russian.

As the Complaint was filed in English, the Center, in its notification dated July 5, 2022, invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceeding should be in English, or (ii) the Complaint translated into Russian or (iii) a substantiated request for English to be the language of the proceeding by July 8, 2022.

On July 6, 2022, the Complainant submitted a request that English be the language of the proceeding.

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Similar to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred, and the possibility of delay in the proceeding in the event translations are required and other relevant factors (see, e.g., *Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

(i) the fact that the Complainant, a United Kingdom-based entity, does not appear to be able to communicate in Russian and therefore, if the Complainant was required to have the documents translated into Russian, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation;

(ii) the Disputed Domain Name itself contains the words "gov" and "uk", which are common abbreviations for English words "government" and "United Kingdom"; these suggest that the Respondent has knowledge of the English language and would be able to communicate in English;

(iii) the Respondent did not object for English to be the language of the proceeding, and did not submit a Response in either English or Russian.

Therefore, for the purpose of easy comprehension of the Complainant (ultimately, the Party solely taking part in the proceeding) of the Panel's decision without any necessity of translations, and in the interest of fairness to both Parties as well as the Panel's obligation under paragraph 10(c) of the Rules, which provides that "the Panel shall ensure that the administrative proceeding takes place with due expedition", the Panel hereby decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

(II) The Respondent's Failure to Respond

The Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant (see, e.g., *Tradewind Media, LLC d/b/a Intopic Media v. Jayson Hahn*, WIPO Case No. [D2010-1413](#), and *M. Corentin Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). However, the Panel may draw appropriate inferences from the Respondent's default.

B. Identical or Confusingly Similar

The Complainant is required to establish the two following elements: (i) that it has trademark rights, and, if so, (ii) that the disputed domain name is identical or confusingly similar to its trademark.

First, the Panel finds that the Complainant has evidenced that it has rights in and to the trademark HMRC, which was registered in United Kingdom.

Second, the Disputed Domain Name comprises the Complainant's HMRC trademark, in which the Complainant has exclusive rights. The difference between the Disputed Domain Name and the trademark is the addition of the single letter "r", the term "gov" (a common short form of "government" which is closely related to Complainant's activities), the suffix "uk" (a common short form of "United Kingdom", the name of the country where the Complainant resides) and three hyphen marks. In this regard, the Panel finds that the trademark HMRC still remains clearly recognizable in the Disputed Domain Name. It is well established that the addition of terms or letters to a trademark does not prevent a finding of confusing similarity, as it was found in previous UDRP decisions (see, e.g., *Supercell Oy v. See Privacy Guardian.org / Mediastack*, WIPO Case No. [D2017-2177](#); *Johnson & Johnson v. Tung Nguyen*, WIPO Case No. [D2017-1635](#)).

Third, the Panel finds, similarly to other UDRP panels, that the addition of the gTLD ".com" to the Disputed Domain Name does not constitute an element as to avoid confusing similarity for the Policy purposes (see, e.g., *Volkswagen AG v. Privacy Protection Services*, WIPO Case No. [D2012-2066](#); *The Coca-Cola Company v. David Jurkiewicz*, WIPO Case No. [DME2010-0008](#); *Telecom Personal, S.A., v. NAMEZERO.COM, Inc.*, WIPO Case No. [D2001-0015](#); *F. Hoffmann La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Based on the foregoing findings, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's HMRC trademark, and paragraph 4(a)(i) of the Policy is established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, demonstrate the respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy, including:

"(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 Panel finds that the Complainant has *prima facie* established that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent did not refute the Complainant's contentions.

The consensus of previous UDRP decisions is that while the overall burden of proof in UDRP proceedings is on the complainant, once a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the disputed domain name (see e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Julian Barnes v. Old Barn Studios Limited*, WIPO Case No. [D2001-0121](#)). In this instant

case, the Panel finds that the Respondent has failed to meet that burden since no response was submitted providing arguments or evidence to the contrary.

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant's asserted facts, that no license, permission or authorization in any kind to use the Complainant's HMRC trademark has been granted to the Respondent. There is no evidence available that the Respondent holds any registered or unregistered trademark rights in any jurisdiction related to HMRC. Thus, the Panel finds that the Respondent has no rights in the trademark HMRC.

The Panel finds, according to what the Complainant established and similar to other UDRP panels, that the HMRC trademark is recognized as a renowned trademark, at least, for tax collection services in United Kingdom (See, e.g. *The Commissioners for HM Revenue and Customs v. Privacy Service Provided by Withheld for Privacy ehf / Frank Bellucio*, WIPO Case No. [D2022-0686](#); *The Commissioners for HM Revenue and Customs v. WhoisGuard Protected, WhoisGuard, Inc. / Ashley Heart*, WIPO Case No. [D2021-0346](#); *The Commissioners for HM Revenue and Customs v. WhoisGuard Protected, WhoisGuard, Inc. / Sha Besn*, WIPO Case No. [D2021-0342](#); *The Commissioners for HM Revenue and Customs v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Maxwell Gomez*, WIPO Case No. [D2021-2000](#)).

In addition, given that the Disputed Domain Name comprises the trademark HMRC in its entirety, adding the term "gov" (a common short form of "government" which is closely relevant to Complainant's activities) and the geographic term "uk", the Respondent is seen as tending to suggest sponsorship or endorsement by the trademark owner (see section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)").

As evidenced by the Complainant at Annex 5, the website associated with the Disputed Domain Name is inaccessible through the Hypertext Transfer Protocol Secure (which is commonly referred to as "HTTPS"). However, as of the date of this Decision, the Panel conducted a recheck and found that such website could be accessed at the address "http://r-hmrc-gov-uk.com/", without the "https" protocol. Particularly, the Disputed Domain Name is resolving to a parked hosting website of the Registrar, REG.RU.

However, no evidence is available on the Respondent's use of the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Hence, in absence of this evidence, the Panel is of the view that paragraph 4(c)(i) is not met. Instead, as evidenced in Annex 6 of the Complaint, the Disputed Domain Name is configured with MX records that allow it to be used to send emails. In this regard, given the above nature of the Disputed Domain Name, the Panel opine that emails originating from the Disputed Domain Name may create confusion to the recipient/Internet users that these emails are sent by or linked to the Complainant.

Regarding paragraphs 4(c)(ii) and 4(c)(iii) of the Policy, the Panel finds that there is no evidence that would suggest that the Respondent, as an individual, business, or other organization, has been commonly known by the Disputed Domain Name, or that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. In fact, as it appears following the Complainant's assertions and evidence with regard to the Respondent's registration of the Disputed Domain Name, the Respondent had full knowledge of the HMRC trademark and had an intention to gain profit by riding on the goodwill and reputation of the Complainant.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and the second element, paragraph 4(a)(ii) of the Policy is established.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, including:

“(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 above four circumstances are not exhaustive and bad faith may be found by the Panel alternatively in other circumstances.

The Panel finds that the Complainant has put forth evidence that the Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent did not reply to the Complainant’s contentions and therefore, did not refute the Complainant’s contentions.

As mentioned in section C above, the Panel finds that the trademark HMRC is well-known in the United Kingdom. In this regard, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity, as is the case here, can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Given the famous nature and wide use of the HMRC trademark by the Complainant, which well predated the registration date of the Disputed Domain Name, it is very unlikely that the Respondent registered the Disputed Domain Name in a fortuity. Also, the Panel is of the view that the nature of the Disputed Domain Name, incorporating the Complainant’s famous trademark plus the terms “gov” and “uk”, indicates itself that the Respondent had knowledge of the Complainant being a department of the United Kingdom government, but deliberately selected the Disputed Domain Name. The Panel considers such registration is an attempt by the Respondent to take advantage of the Complainant’s goodwill. See section 3.2.1 of the [WIPO Overview 3.0](#).

In light of the foregoing, the Panel finds that at the time of registration of the Disputed Domain Name, the Complainant had considerable reputation in the HMRC trademark. Hence, the Panel is of the view that the Respondent intentionally chose to register the Disputed Domain Name comprising of the Complainant’s HMRC trademark, in order to somehow confuse Internet users that the Disputed Domain Name may have a connection with the Complainant. In addition, as evidenced by the Complainant, the Disputed Domain Name has been associated with an MX record which enables its use as an email domain address. This along with the composition of the Disputed Domain Name, lead the Panel to consider that the Disputed Domain Name could be used to deceive Internet users by impersonating the Complainant. In these circumstances, the Disputed Domain Name constitutes a potential threat hanging over the Complainant, especially in light of the fact that tax authorities are targets of choice for fraudulent activities on the Internet.

Furthermore, the Respondent has failed to submit a response and/or to provide any evidence of actual or contemplated good faith use of the Disputed Domain Name. Therefore, the Panel considers that it is implausible for the Respondent to engage in any good faith use of the Disputed Domain Name.

Taking into account all of the above, the Panel finds that the Disputed Domain Name was registered and used by the Respondent in bad faith and the third element under paragraph 4(a)(iii) of the Policy is established.

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 <r-hmrc-gov-uk.com> be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: August 30, 2022