

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Privacy service provided by Withheld for Privacy ehf / Trust International
Case No. D2022-2476

1. The Parties

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

The Respondent is Privacy service provided by Withheld for Privacy, Iceland / Trust International, United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 7, 2022. On July 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 12, 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 13, 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 9, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 26, 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 is the tax collection authority in the United Kingdom and was created in its current form in 2005. It is formally known as Her Majesty's Revenue and Customs, which is abbreviated as HMRC.

The Complainant owns United Kingdom trademark registration no. UK00002471470 for HMRC registered on March 28, 2008. It also owns nonregistered rights in HMRC as it is commonly known as HMRC.

The disputed domain name was created on November 26, 2021, and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark as it only adds the terms "tax payment", which is associated with the Complainant. The Complainant's trademark remains the most dominant and prominent part of the disputed domain name. The generic Top-Level Domain ("gTLD") ".org" can be ignored.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by HMRC or "tax payment HMRC" nor is a licensee of the Complainant or authorized by the latter to use its trademark. There's nothing to suggest that the Respondent owns any trademark similar or identical to HMRC or "tax payment HMRC" nor that the Respondent operated as HMRC or "tax payment HMRC". The disputed domain name is not used in connection with a *bona fide* offering of goods or services as it resolves to an inactive website. The absence of a reply to the letter of the Complainant amounts to an admission of the Complainant's contentions.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. This is a case of passive holding, which constitutes bad faith given the surrounding circumstances; (i) the Complainant and its trademark are very well known, (ii) the Respondent did not submit any evidence of contemplated good faith use, (iii) the Respondent has redacted its contact details and (iv) it is inconceivable that the Respondent could have registered the disputed domain name with good faith intentions. The use of privacy service is an indicative of bad faith given the surrounding circumstances of the case.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for HMRC. The Panel is satisfied that the Complainant has established its ownership of the trademark HMRC.

The disputed domain name incorporates the Complainant's trademark HMRC in its entirety. It is established by prior UDRP panels that when a domain name incorporates a complainant's registered trademark, such

incorporation is sufficient to establish identity or confusing similarity for the purposes of the Policy even if other terms are added as part of the disputed domain name. See e.g., *Oki Data Americas, Inc v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (“*Oki Data*”). The addition of the term “tax payment” does not alter the fact that the disputed domain name is confusingly similar to the Complainant’s trademark. The gTLD “.org” can be ignored when assessing confusing similarity as it is a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark and contends that the Respondent has no rights or legitimate interests in the disputed domain name and that the disputed domain name is not being used in connection with a *bona fide* offering of goods or services. The Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name.

Furthermore, the absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of response leaves the Complainant’s *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name unrebutted.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent must have been aware of the Complainant’s trademark and its field of activity. The disputed domain name was registered 13 years after the registration of the Complainant’s trademark. The nature of the disputed domain name suggests affiliation with the Complainant as it incorporates the Complainant’s HMRC trademark in full. The use of the words “tax payment” reinforces the impression that the disputed domain name is associated with the Complainant as the Complainant is the tax collection authority of the United Kingdom. Accordingly, the Respondent must have registered the disputed domain name with the Complainant’s trademark in mind in order to attract Internet users looking for the Complainant’s website.

Additionally, this is a case of passive holding, which can constitute bad faith use as the circumstances surrounding it meet the criteria set out in a number of prior UDRP decisions, See e.g., *Accenture Global Services Limited v. Marc Diks*, WIPO Case No. [D2021-1383](#).

Furthermore, there was no response to the cease and desist letter and the use of a privacy shield service is under the circumstances a further indication of bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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, <taxpaymenthmrc.org>, be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: September 9, 2022