

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Emilio Martinez Case No. D2022-4779

1. The Parties

- 1.1 The Complainant is The Commissioners for HM Revenue and Customs, United Kingdom (“United Kingdom” or “UK”), represented by Demys Limited, United Kingdom.
- 1.2 The Respondent is Emilio Martinez, United Kingdom.

2. The Domain Name and Registrar

- 2.1 The domain name <hmrc-gsi.gov.info> (the “Domain Name”) is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

- 3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2022. At that time the publicly available Whois details for the Domain Name identified “REDACTED FOR PRIVACY” as the registrant name and “Privacy Protect, LLC (PrivacyProtect.org)” as the registrant organization of the Domain Name.
- 3.2 On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing underlying registrant and contact information for the Domain Name. The Center sent an email communication to the Complainant on December 19, 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 December 19, 2022.
- 3.3 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”).
- 3.4 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 3, 2023. In accordance with the Rules,

paragraph 5, the due date for Response was January 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 24, 2023.

- 3.5 The Center appointed Matthew S. Harris as the sole panelist in this matter on January 26, 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

- 4.1 The Complainant is a non-ministerial department of the UK Government responsible for the collection of taxes, the payment of some forms of state support and the administration of other regulatory regimes.
- 4.2 The Complainant, in its present form and with its current name, was created by the merger of the Inland Revenue and HM Customs and Excise in April 2005 and was established by the Commissioners for Revenue and Customs Act, 2005. As the UK Government's tax authority, almost every UK individual and business has dealings with the Complainant and is a user of its services.
- 4.3 The Complainant is also the owner of various registered trade marks including UK trade mark registration UK00002471470 dated March 28, 2008, for HMRC as a word mark in classes 9, 16, 35, 36, 38, 41 and 45.
- 4.4 The Complainant operates a website within the UK Government's official portal at "www.gov.uk/government/organisations/hm-revenue-customs". This site can also be accessed through the domain name <hmrc.gov.uk>.
- 4.5 The Complainant also previously used <gsi> for its government email domain. <gsi> is a contraction of the term "Government Secure Intranet". The Government Secure Intranet is a United Kingdom government wide area network, whose main purpose is to enable governmental and third-party organisations to communicate electronically. Although now depreciated, for many years many UK government departments used the email format of "[personal name]@[department].gsi.gov.uk" and the legacy of this system is such that the format is still well known.
- 4.6 As with other tax authorities around the globe, the Complainant and its customers are frequently targeted for phishing, online scams and criminality.
- 4.7 The Complainant has commenced and been successful in a very large number of previous UDRP proceedings.
- 4.8 The Domain Name was registered on November 3, 2022. Since registration it has not been used for any active website but the Domain Name's zone file is configured with Mail eXchanger ("MX") records, such that it can be used for email communications.
- 4.9 On or about November 28, 2022, the Complainant's agents sent a letter by email to "postmaster@hmrc-gsi.gov.info" demanding that the domain name be transferred within 7 days to the Complainant. There was no response to that letter.
- 4.10 According to the information supplied by the Registrar in response to the Center's verification request the Respondent is an individual located in the United Kingdom. However, whether the details provided by the Registrar are the real name and address of the person who has registered the Domain Name, is questionable.

5. Parties' Contentions

A. Complainant

- 5.1 The Complainant describes its history and activities as a tax authority in some detail. That description includes its activities online and the operation of the UK Government Secure Internet. The Complainant also describes how it and its customers have historically been the target of various forms of criminal activity and how various domain names have been used by bad actors in this respect. In support of these contentions, it also provides a bundle of UK press articles that stretch back to 2014 in which a number of the relevant scams and frauds are described. The Complainant also sets out how the Domain Name has been used since registration.
- 5.2 The Complainant identifies its UK registered trade marks and further contends that by reason of its activities it is also the owner of unregistered rights in the term HMRC. In this respect it provides a further bundle of press articles in which it is referred to by this name.
- 5.3 The Complainant maintains that the Domain Name is confusingly similar to its HMRC mark. In this respect it contends that the Domain Name is of a similar type to the domain name the subject of the decision in *The Commissioners for HM Revenue and Customs v. Ivan Luganov*, WIPO Case No. [D2017-2504](#).
- 5.4 The Complainant further maintains that the Respondent has no right or legitimate interest in respect of the Domain Name in that the Respondent was not known as HMRC, has not been licensed by the Complainant and does not own any trade mark similar or identical to this term. It also relies in this respect upon the fact that the Domain Name has been passively held since registration and the Respondent's failure to respond to the Complainant's agent's letter of November 28, 2022.
- 5.5 The Complainant also contends that the Domain Name has been registered and is being used in bad faith. In this respect it relies upon the distinctiveness of its HMRC mark, the failure of the Respondent to respond to its letter or provide any evidence of actual or contemplated good-faith use, and claims that it is inconceivable that the Domain Name could have been registered or held with a good faith intention. In this respect it particularly relies upon the fact that the Domain Name contains the term "gov" which is said to be an obvious reference to the UK government and "gsi" which is said to involve a reference to the UK Government Secure Internet system. Reference is also made to the configuration of MX records, and the Complainant claims that anyone receiving an email originating from the Domain Name would reasonably assume that it was sent from the Complainant. Finally, the Complainant contends that the use of a privacy service is in the circumstances of this case indicative of bad faith.

B. Respondent

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

6. Discussion and Findings

- 6.1 There are no exceptional circumstances within paragraph 5(f) of the Rules so as to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of any Respondent to lodge a Response.
- 6.2 To succeed in these proceedings the Complainant must make out their case in all respects under paragraph 4(a) of the Policy. Namely, the Complainant must prove that:
 - (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights (paragraph 4(a)(i)); and

- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name (paragraph 4(a)(ii)); and
 - (iii) the Domain Name has been registered and is being used in bad faith (paragraph 4(a)(iii)).
- 6.3 However, under paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the Panel shall “draw such inferences therefrom as it considers appropriate”.

A. Identical or Confusingly Similar

- 6.4 The Complainant has satisfied the Panel that it has registered trade mark rights in the term “HMRC”. The Panel also accepts that it is likely that the Complainant hold unregistered trade mark rights in that term in the form of rights under the law of passing off in various parts of the United Kingdom and possibly elsewhere.
- 6.5 In order to demonstrate the first element of the Policy, it is usually sufficient for a complainant to show that the relevant mark is “recognizable with the disputed domain name”; see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the [“WIPO Overview 3.0”](#)). The Domain Name can only be sensibly understood as the term “HMRC” combined with the terms “gsi”, “gov” and the “.info” generic Top-Level Domain. The Complainant’s mark is, therefore, clearly recognisable in the Domain Name. The Panel also accepts that the terms “gov” and “gsi” would most likely be understood as (and indeed were intended to be deliberate) references to “government” in the case of “gov” and the UK Government Secure Internet. This makes it even more likely that the term “HMRC” in the Domain Name would be understood as referring to the Complainant and its trade mark, all of which supports a finding of confusing similarity.
- 6.6 The Complainant has, therefore, satisfied the Panel that the Domain Name is confusingly similar to a trade mark in which it has rights and it has thereby made out the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests and Registered and Used in Bad Faith

- 6.7 It is usual for panels under the Policy to consider the issues of rights or legitimate interests and registration and use in bad faith in turn. However, in this case it is more convenient to consider those issues together.
- 6.8 The Panel accepts that the Domain Name has been deliberately registered in order to falsely impersonate the Complainant. The Domain Name not only contains the term “HMRC” which can only be understood as involving a deliberate reference to the Complainant, but also incorporates the terms “gov” and “gsi” which inherently represent that the Domain Name is being used by a governmental organisation and in connection in some way with the historic UK Government Secure Internet system. To use language that will be familiar to United Kingdom trade mark lawyers, the Domain Name when in the hands of any entity other than the Complainant, is inherently an instrument of fraud or deception.
- 6.9 The exact reason why the Respondent is holding a domain name that fraudulently impersonates the Complainant is not clear. The Complainant explains how a large number of domain names that contain the term “HMRC” have been registered and been used in order to further various frauds and scams. And although this is not quite expressly asserted in the Complaint, the clear implication of the Complaint is that it was with such a use in mind that the Domain Name was most likely registered and is being held.
- 6.10 However, whatever is the exact intent of the Respondent in this case ultimately does not matter. There is no right or legitimate interest in holding a domain name in a manner that fraudulently impersonates another (see, for example, *Vestey Group Limited v. George Collins*, WIPO Case No.

[D2008-1308](#)). Further, the registration and holding a domain name for such a purpose are also clear-cut examples of bad faith registration and use.

6.11 In the circumstances, the Panel finds that the Complainant has made out the requirements of paragraphs 4(a)(ii) and 4(a)(iii) of the Policy.

7. Decision

7.1 For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <hmrc-gsi-gov.info>, be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: February 9, 2023