

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Darren Olarsch, Evans
Case No. D2023-5208

1. The Parties

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

The Respondent is Darren Olarsch, Evans, United States of America.

2. The Domain Name and Registrar

The disputed domain name <gov-hmrc.org> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2023. On December 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 14, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 21, 2023 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 22, 2023.

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 December 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 23, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on February 5, 2024. 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, officially recognized as “His Majesty’s Revenue and Customs”, is commonly referred to as “HM Revenue and Customs” or simply “HMRC”. It functions as a non-ministerial department within the government of the United Kingdom (“UK”) and acts as the tax authority of the UK Government. The Complainant is particularly tasked with tax collection, distribution of certain state benefits, and the administration of various regulatory frameworks. The Complainant can trace its recent lineage through the Board of Taxes, which was established under the reign of Charles II in 1665, and the Board of Inland Revenue, created through the Inland Revenue Board Act of 1849. The Complainant, as it exists today under its current name, came into being in April 2005 as a result of the merger between the Inland Revenue and HM Customs and Excise. This merger was formalized in The Commissioners for Revenue and Customs Act of 2005.

The Complainant owns a trademark portfolio for the mark HMRC and variations on that mark, including particularly UK Trademark Registration Number UK00002471470 for HMRC, registered on March 28, 2008 and UK Trademark Registration Number UK00003251234 for HM Revenue & Customs, registered on December 29, 2017. The Complainant also submits evidence from which it appears that it is also commonly known and referred to as HMRC.

The disputed domain name was registered on October 4, 2023 and is therefore of a later date than the Complainant’s registered trademarks. The Complainant provides evidence that the disputed domain name resolves to what is likely an active pay-per-click advertising webpage containing third-party commercial advertising links related to the Complainant and its activities, such as “Vat Registration”; “Pay Invoice” and “Invoice Form”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its trademark for HMRC because it fully incorporates this mark, with only the addition of the term such as “gov”.

The Complainant also contends that the Respondent’s registration of the disputed domain name, despite the Complainant being commonly and publicly known as HMRC, demonstrates that the Respondent did not legitimately register the disputed domain name.

Further, the Complainant argues that the pay-per-click advertising links on the website associated with the disputed domain name capitalize on the value of the Complainant’s mark. The Complainant avers that the disputed domain name uses the attractive force of the Complainant’s well-known mark, combined with a word that closely describes the Complainant’s activities (that is, “gov”) to misdirect users to third-party advertising. The Complainant also argues that the disputed domain name, at worst, directly impersonates the Complainant or, at best, carries a risk of implied affiliation.

As to bad faith, the Complainant essentially contends that it is likely that the disputed domain name was registered for the purpose of impersonation and misleading emails or phishing purposes as the disputed domain name has been linked to an Email Exchange (“MX”) server which could lead to harmful phishing

campaigns by the Respondent. The Complainant essentially contends that the abovementioned use of the disputed domain name does not confer any rights or legitimate interests in respect of the disputed domain name and constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "gov-", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the Complainant's evidence, the website to which the disputed domain name resolves is likely an active pay-per-click advertising webpage containing active third-party commercial advertising links related to the Complainant and its activities, such as "Vat Registration"; "Pay Invoice" and "Invoice Form". The Panel deduces from this fact that such links are very likely pay-per-click links. The Panel concludes that this shows the Respondent's intention to capitalize on the reputation and goodwill of the Complainant's trademarks for HMRC, from which the Respondent cannot derive any rights or legitimate interests in the disputed domain name (see also [WIPO Overview 3.0](#), section 2.9; and previous UDRP decisions in this sense such as *Maker Studios, Inc. v. ORM LTD / Contact Privacy Inc. Customer 0137258808*, WIPO Case No. [D2014-0918](#); and *Lennar Pacific Properties Management, Inc., Lennar Mortgage, LLC v. 徐海民 (Xu Hai Min), 权中俊 (Quan Zhong Jun), 殷磊 (Lei Yin), 杨智强 (Zhi Qiang Yang)*, WIPO Case No. [D2021-0576](#)).

Finally, the Panel agrees with the Complainant that the nature of the disputed domain name, being confusingly similar to the Complainant's trademark for HMRC and combined with the common abbreviation for government, namely "gov", carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its services or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant's intensely used, distinctive mark and that the Complainant is publicly and commonly known as HMRC. The Panel accepts that the Complainant's HMRC mark is well-known based on the Complainant's evidence and notes that previous UDRP panels applying the Policy have also recognized the distinctiveness and well-known nature of this mark (see for instance *The Commissioners for HM Revenue and Customs v. Domain Admin*, WIPO Case No. [D2023-2889](#)). The Panel considers that by registering the disputed domain name, the Respondent deliberately and consciously targeted the Complainant's prior well-known trademark for HMRC. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anel have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". Furthermore, the Panel also notes that the Complainant's trademark for HMRC was registered many years before the registration date of the disputed domain name. The Panel deduces from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the website linked to the disputed domain name currently directs to an active webpage, containing only what are presumed to be a number of pay-per-click links. There are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. This shows, in the Panel's view, that the Respondent is misleading and diverting Internet users for commercial gain to such third-party websites. Moreover, the Complainant also provides evidence that the MX records for the disputed domain name indicate that the Respondent has connected the disputed domain name to an email server, which creates a grave risk that the Respondent may be using the disputed domain

name, which is confusingly similar to the Complainant's trademark, for potential phishing and spamming activities (see in regard of the sense also previous UDRP decisions such as *Accenture Global Services Limited v. Leed Johnny (蒋黎)*, WIPO Case No. [D2020-0578](#)), of which the Complainant has already been the victim in the past, according to its evidence. The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith, to take unfair advantage of the Complainant's registered trademark for undue commercial gain. The Panel therefore finds that it has been demonstrated that the Respondent is using the disputed domain name in bad faith.

Based on the available record, the Panel finds that the Complainant has established the third 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 <gov-hmrc.org> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: February 14, 2024