

## **ADMINISTRATIVE PANEL DECISION**

The Commissioners for HM Revenue and Customs v. 1&1 Internet Inc /  
Beverly Czajka  
Case No. D2022-0922

### **1. The Parties**

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

The Respondent is 1&1 Internet Inc, United States of America (“United States”) / Beverly Czajka, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <revenue-hmrc.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 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 March 17, 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 March 18, 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 March 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 20, 2022.

The Center appointed John Swinson as the sole panelist in this matter on May 12, 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 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. The Complainant can trace its predecessors through to the Board of Taxes (founded in 1665 under Charles II). 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 in The Commissioners for Revenue and Customs Act, 2005.

The Complainant owns a UK registered trademark for HMRC, being trademark number 2471470 filed on November 5, 2007 and registered on March 28, 2008.

The Respondent is an individual from New York, United States. The Respondent did not file a formal response, so little information is known about the Respondent.

The disputed domain name was registered on February 18, 2022.

The disputed domain name does not resolve to an active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

In summary, the Complainant made the following submissions:

As the UK Government's tax authority, almost every UK individual and business is a direct customer of the Complainant and user of its services.

The Complainant operates a website that can be accessed via the domain name <hmrc.gov.uk>.

The Complainant notes that, as with other tax authorities around the globe, it and its customers are frequently targeted by phishing, online scams and other criminality.

The Respondent has caused or allowed its details to be redacted from the public Whois and little is known about the Respondent by the Complainant.

The Complainant's agent wrote to the Respondent but did not receive a response.

The Complainant owns a registered trademark for HMRC, referred to in section 4 above. This trademark registration pre-dates the registration of the disputed domain name.

The Complainant contends that it is very well known in the UK and around the world as HMRC, and has produced a bundle of materials to support this assertion.

The disputed domain name is confusingly similar to the HMRC trademark in that it only differs by the addition of the term "revenue". The term "revenue" is inherently associated with the Complainant and its activities. This is especially the case because the term "revenue" is included in the Complainant's full name.

The Respondent has not received any permission or consent from the Complainant to use its trademark or name. There is no evidence that the Respondent is commonly known by HMRC. The Complainant has not found any trademarks owned by the Respondent that incorporate HMRC. Further, the Respondent is not using the disputed domain name or traded as HMRC.

The Respondent did not respond to the Complainant's letter (referred to above). The Respondent's non-response and failure to give an explanation to the Complainant's assertions is similarly an admission of the Complainant's contentions.

The disputed domain name is "passively held". Such passive holding of the disputed domain name constitutes bad faith. The Complainant refers to section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Given the fame, widespread use and reputation of the Complainant, as outlined above and supported by evidence, it is inconceivable that the Respondent could have registered the disputed domain name without the Complainant's trademark in mind and with good-faith intentions. This is especially so given the inclusion of the word "revenue".

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns a trademark registration for HMRC. The disputed domain name includes HMRC in full as well as the word "revenue" which is a word that is part of the Complainant's name.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name. See, for example, *Consumer Reports, Inc. v. Wu Yan, Common Results, Inc.*, WIPO Case No. [D2017-0371](#).

The Complaint also refers to the analogous case in *The Commissioners for HM Revenue and Customs v. Domains By Proxy, LLC DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2018-2348](#), which concerned the domain name <hmrcrevenuegovuk.com> in which the panel held that <hmrcrevenuegovuk.com> was confusingly similar to the Complainant's trademark.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant's HMRC trademark.

The Complainant succeeds on the first element of the Policy.

## **B. Rights or Legitimate Interests**

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The *onus* of proving this requirement, like each element, falls on the Complainant.

Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant asserts that the Respondent has not received any permission or consent from the Complainant to use its trademark or name. The Complainant also asserts that there is no evidence that the Respondent is commonly known by HRMC, and that the Complainant has not found any trademarks owned by the Respondent that incorporate HMRC. Further, the Respondent is not using the disputed domain name.

The Panel considers that, based upon the above, the Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Respondent has chosen not to file a formal Response. The Respondent has not produced any evidence to establish its rights or legitimate interests in the disputed domain name.

The disputed domain name includes HMRC in full as well as the word “revenue”, which carries a risk of implied affiliation. Based on the evidence before the Panel, none of the circumstances listed in paragraph 4(c) apply in the present circumstances. Accordingly, the Panel finds that the Respondent has no rights or any legitimate interests in the disputed domain name.

The Complainant succeeds on the second element of the Policy in relation to the disputed domain name.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The Complainant is well-known, at least in the UK. The Complainant has been the subject of phishing and other online activities designed to defraud members of the public. The fact that there is no current website at the disputed domain name is not fatal to the Complainant’s case. For example, the disputed domain name could be being used for phishing or other fraudulent emails.

The Complainant wrote to the Respondent but did not receive a response.

The Panel can easily draw the inference in this case that the primary reason for registering the disputed domain name was for fraudulent purposes or to confuse Internet users into believing that the disputed domain name is associated with the Complainant. The Panel cannot think of any use of the disputed domain name that would not be in bad faith. (Compare *Riyad Bank v J. Boschert*, WIPO Case No. [D2001-1235](#) where the Panel stated in respect of a domain name that had not been used that “the Panel is unable to conceive of any rational explanation for the Respondent’s registration other than intended bad faith use”.)

The Respondent has provided no justification for registration of the disputed domain name.

The Complainant succeeds on the third element of the Policy in relation to the disputed domain name.

## **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 <revenue-hmrc.com> be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: May 26, 2022