

## **ADMINISTRATIVE PANEL DECISION**

The Commissioners for HM Revenue and Customs v. Privacy Protection /  
taeho kim, Dzone Inc  
Case No. D2022-1662

### **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 Protection, United States of America / taeho kim, Dzone Inc, Republic of Korea.

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

The disputed domain name <govhmrc.com> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 6, 2022. On May 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 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 May 18, 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 May 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 May 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2022. The Respondent requested an automatic response extension on June 4, 2022, and the Response due date was extended to June 12, 2022. The Respondent did not submit any further communications. Accordingly, the Center proceeded to panel appointment on July 11, 2022.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on July 28, 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 United Kingdom (“UK”) government body responsible for the administration and collection of direct taxes within the UK, and being the UK Government’s tax authority, almost every UK individual and business is a direct customer of the Complainant, commonly referred to as HMRC.

The Complainant is the registered owner of several trademarks in the UK, being No. 2471470 HMRC registered on March 28, 2008, for goods and services in the International Classes 9, 16, 35, 36, 38, 41 & 45; and No. 3251234 HM REVENUE & CUSTOMS (design) registered on December 29, 2017, for goods and services in International Classes 9, 16, 35, 36, 38, 41 & 45. The Complainant notes that the earlier mark predates the registration of the disputed domain name by approximately 13 years.

The Complainant also contends that it is very well known in the UK and around the world as HMRC and to illustrate this has produced screenshots of various websites that make reference to these terms, and points out that “gov” is a term commonly used by governments to denote a website related to governmental business.

The disputed domain name was registered on January 3, 2021, and resolves to a parking page with pay-per-click links.

#### **5. Parties’ Contentions**

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

The Complainant notes that, as a tax authority, it and its customers are frequently targeted by phishing, online scams and other criminality. The Complainant observes that the disputed domain name has characteristics that are common to domain names that have been used to target the Complainant and its customers for abusive purposes.

The Complainant also stresses that the Respondent has caused or allowed its details to be redacted from the public Whois database, and that otherwise there is little known about the Respondent. The Complainant believes that the Respondent has been party to approximately four previous disputes under the UDRP, which were all found against the Respondent.

The Complainant’s agent wrote to the Respondent on April 19, 2022, but did not receive a response.

The Complainant acknowledges that it needs to make out a *prima facie* case concerning the lack of rights or interests in the Respondent. In that regard, the Complainant says that it has not found any evidence that the Respondent has been commonly known by the names “HRMC” or “GOV HMRC” prior to or after the registration of the disputed domain name. The Respondent is not a licensee of the Complainant and has does not benefit from any permission, consent or acquiescence from the Complainant to use its marks or name in association with the registration of the disputed domain name.

The Complainant says that it has found nothing to suggest that the Respondent owns any trademarks that incorporate or are similar or identical to the terms “HRMC” or “GOV HMRC”. Equally, the Complainant has found no evidence that the Respondent has ever traded or operated as “HRMC” or “GOV HMRC”.

The Complainant asserts that the Respondent's use of the disputed domain name cannot be construed as legitimate noncommercial or fair use, given the use of the disputed domain name for commercial purposes through its association with pay-per-click advertising. The Complainant ads that even if the pay-per-click advertising was placed "automatically" on the website associated with the disputed domain name by the registrar of record or a third party then the Respondent is still responsible and accountable for the website and the advertising that appears there.

The Complainant also states that it has not received any response to its cease-and-desist correspondence and contends that this non-response and failure to give an explanation amounts to an admission of the Complainant's contentions.

In terms of registration and use in bad faith, the Complainant notes that it is well established under the Policy that in most circumstances the display of pay-per-click advertising in association with a domain name that is confusingly similar to a complainant's trademark is sufficient on its own for a finding of registration and use in bad faith, regardless of whether it was directly placed by the registrant or the registrar of record. The Complainant also maintains that even if the advertising was placed by the registration provider or other third party, the Respondent cannot disclaim responsibility for it.

Considering that the disputed domain name is confusingly similar to the Complainant's marks and that there are other *indicia* of bad faith, the Complainant says that it cannot see how the use of a privacy service can be legitimate here. The Complainant contends that the use of a privacy service by the Respondent is therefore a further indication of bad faith registration and use of the disputed domain name.

## **B. Respondent**

The Respondent requested an extension of the response due date on June 4, 2022. The Center automatically extended the response due date to June 12, 2022, but the Respondent did not submit any further communications.

## **6. Discussion and Findings**

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

The disputed domain name is not identical to the Complainant's HMRC mark. However, the HMRC mark is immediately recognizable in the disputed domain name. The addition of the letters "gov" which stands for "government" does not prevent a finding of confusing similarity. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore the Panel holds that the disputed domain name is confusingly similar to the HMRC trademark of the Complainant.

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

As the Complainant points out, all that is required of it is to make out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant says that it has not authorized or licensed the use of its HMRC trademark in any form by the Respondent. The Complainant has not located through its searches, any indication that the Respondent is known by the disputed domain name or the acronym "HMRC" or "govhmrc", or has trade mark rights or the like in relation to these terms. The Respondent has not replied to the letter of demand of the Complainant, nor has it put anything before the Panel that counters the contentions of the Complainant. Moreover, the Respondent used a privacy service

to disguise its true identity.

Therefore the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

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

The disputed domain name resolves to a parking page where it is used for the purpose of generating pay-per-click advertising revenue. The use of the disputed domain name for pay-per-click purposes, is sufficient to constitute use in bad faith, as it relies on the goodwill attached to the Complainant's distinctive mark to generate income from consumers who have been confused or deceived by the incorporation into the disputed domain name of that mark. That the Respondent is not necessarily aware of the automatically generated pay-per-click practice is of no consequence as it is within the Respondent's responsibility and power to determine what does or does not happen with the disputed domain name. Moreover, the Respondent did not reply to the Complainant's contentions. In any case, the composition of the disputed domain name is such as to indicate that the Respondent was both fully aware of the Complainant's rights in the HMRC mark (the addition of the letters "gov" reinforces the confusing impression that the disputed domain name is legitimately connected to the Complainant) and intended to put it to some use that is almost inevitably nefarious, as the Respondent has no legitimate connection with or authorization from the Complainant.

Therefore the Panel holds that the disputed domain name was registered and used in bad faith.

### **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 <govhmrc.com> be transferred to the Complainant.

*/William van Caenegem/*

**William van Caenegem**

Sole Panelist

Date: August 11, 2022