

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Contact Privacy Inc.
Customer 7151571251 / A Ali, P1NNAC7E.1A7A
Case No. D2022-2244

1. The Parties

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

The Respondent is Contact Privacy Inc. Customer 7151571251, Canada / A Ali. P1NNAC7E.1A7A, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <gov-hmrc.info> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 June 27, 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 the same date.

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 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2022. On July 10 and 12, 2022, the Respondent sent informal e-mail communications to the Center noting that he would need a few days to prepare his Response. No Response has been filed. On August 10, 2022 the Center notified the Parties that it would proceed to panel

appointment.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on August 23, 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 formally known as “Her Majesty’s Revenue and Customs” which is frequently shortened to “HM Revenue and Customs” or the initials “HMRC”. It is a non-ministerial department of the United Kingdom (“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 explains that various tax-raising authorities have existed in what is now the UK since before the Norman conquest in 1066. It can trace its predecessors through the Board of Trade founded in 1665 under King Charles II and the Board of Inland Revenue created by the Inland Revenue Board Act in 1849. Under its current name it 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.

The Complainant is responsible for the administration of direct taxes within the UK such as Income Tax and Corporation Tax as well as indirect taxes such as Value Added Tax, Stamp Duty Land Tax and excise duties. Other aspects of its responsibilities include the collection of National Insurance Contributions and the distribution of state support such as Child Benefit. 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 where general information about it can be found; accessed at “www.gov.uk/government/organisations/hm-revenue-customs/about”.

The Complainant also operates a website within the UK Government’s official portal also accessed at “www.gov.uk/government/organisations/hm-revenue-customs”. An indicative screenshot is exhibited at Annex 03 to the Complaint. The site can also be accessed through the domain name <hmrc.gov.uk>.

The Complainant points out that, as is the case with other tax authorities worldwide, it and its customers are frequently targeted by phishing, online scams and other criminality. There are characteristics which the Complainant lists in the Complaint which are common to domain names that have been used to target the Complainant and its customers for abusive purposes. These are listed in the Complaint and include;

- i. The use of domain names made up of the Complainant’s marks and additional generic terms.
- ii. Additional terms are those associated closely with the Complainant and its activities and include words such as; “tax”, “payment”, “gov”, or “verify” or suggest a call to action, such as “rebate”, “refund” or “gateway”.
- iii. Terms associated with common Internet-related activities such as “online”, “email” or “click”.

The Complainant evidences this use by reference to press articles and government papers exhibited at Article Bundle A which set out the common characteristics of the threats to the Complainant and its customers and demonstrate the scale of the problem.

The Complainant points out that it has successfully asserted its rights in previous UDRP proceedings. A list of approximately 50 of these proceedings is exhibited as Annex 04 to the Complaint. The Panel notes that in all cases the Complainant successfully obtained a transfer of the disputed domain name. The Complainant expressly refers to *The Commissioners for HM Revenue and Customs v. George Hill*, WIPO Case No.

[D2020-0454](#) and *The Commissioners for HM Revenue and Customs v. James Gamme*, WIPO Case No. [D2017-0350](#) which both involved a domain name that incorporated the Complainant's mark HMRC and the abbreviation ".gov"

The Complainant exhibits at Annex 08 printouts from the UK Intellectual Property Office database evidencing the following registered UK trade marks upon which the Complainant relies:

No. 2471470 - HMRC, registered March 28, 2008 in Classes 9, 16, 35, 36, 38, 41 and 45.

No. 3251234 - HM REVENUE & CUSTOMS (with logo), registered December 29, 2017 in Classes 9, 16, 35, 36, 38, 41 and 45.

Both marks pre-date the registration of the disputed domain name which was registered on May 4, 2022.

The Complainant also submits that it owns unregistered trade mark rights in the mark HMRC as a result of publicity material available throughout the world. It gives evidence of relevant screenshots of various websites. It also exhibits, as Article Bundle B, articles from the UK and United States of America which refer to the Complainant, HMRC and other terms by which the Complainant is commonly known. It contends that it is very well known in the UK and around the world as HMRC.

The Complainant refers to the fact that the Respondent has caused or allowed its details to be redacted from the public Whois database. A copy of the Whois database extract for the disputed domain name is exhibited at Annex 01 to the Complaint.

The Complainant points out that otherwise it knows little about the Respondent. However, as can be seen from Annex 05, the disputed domain name does not resolve to an active website. Annex 06 shows the disputed domain name's zone file is configured with Mail eXchanger ("MX") records, which means it can be used for email communication.

The Complainant's agent wrote a demand letter to the Respondent on May 20, 2022 but no response was received.

In the absence of a formal Response, the Panel finds the above evidence of the facts adduced by the Complainant to be true.

5. Parties' Contentions

A. Complainant

The Complainant contends;

- i. It owns registered and unregistered rights in the mark HMRC which predate the registration of the disputed domain name. The disputed domain name is confusingly similar to the mark HMRC.
- ii. There is no evidence that the Respondent has rights or legitimate interests in respect of the disputed domain name. The Respondent's passive holding of the disputed domain name is insufficient to establish a legitimate interest in the disputed domain name.
- iii. On the evidence of the Respondent's activities the disputed domain name was registered and is being used in bad faith. The Complainant relies upon the evidence that the disputed domain name is well known in the UK and elsewhere to support the doctrine of passive holding. The Respondent did not reply to the Complainant's demand letter.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Panel notes however that the Respondent sent informal emails on July 10 and July 12, 2022.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds, on the basis of the evidence set out in Section 4 above, that the Complainant owns registered and unregistered rights in the trade mark HMRC which predate the date of registration of the disputed domain name.

The Complainant contends that the disputed domain name is confusingly similar to its mark HMRC in that it only differs by the addition of the term "gov" and top level domain ".info". Viewed as a whole the mark is recognizable in the disputed domain name.

The Complainant points out that "gov" is a contraction of the word "government". "gov" is a term commonly used by governments to denote a website related to governmental business. It evidences this by reference to its own website which is referred to in section 4 above.

The Complainant relies further upon two UDRP decisions. Firstly, *The Commissioners for HM Revenue and Customs v. James Gamme*, WIPO Case No. [D2017-0350](#) which concerned the domain names <hmrcgov.org> and <hmrcgov.website> in which the panel held that both domain names were confusingly similar to the mark HMRC.

Secondly *The Commissioners for HM Revenue and Customs v. Ivan Luganov* WIPO Case No. [D2017-2504](#) which concerned the domain names <hmrcinfo-gov.net>, <hmrcreport-gov.com> and <hmrcreports-gov.com> in which the panel held that:

"Given that the Complainant is the UK Government's sole tax service and that the term "gov" is a clear contraction of the English word "government", the word "gov" does not distinguish the disputed domain names from the Complainant's mark. In fact, the word "gov" may only serve to increase the potential for confusion between the disputed domain names and the Complainant's business."

This Panel agrees with the findings and reasoning in both decisions and which it considers apply in this case. With regard to the top-level domain name ".info" the Complainant submits that it would generally be ignored for the purpose of comparison of the disputed domain name with the Complainant's marks.

The Panel therefore finds taking into account the absence of a formal Response that the disputed domain name is confusingly similar to the mark HMRC in which the Complainant has prior trade mark rights within Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. In the absence of a formal Response it relies upon section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Section 2.1 explains that where a complainant is able to make out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of proof shifts to the respondent to provide relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element as set out in Paragraph 4(a)(ii) of the Policy. That is the position in this Complaint.

The Complainant has found no evidence that the Respondent has been commonly known by the names HMRC or GOV HMRC prior to or after registration of the domain name. The Respondent has not been licensed or permitted to use the name or the Complainant's marks. The Complainant has not acquiesced in such use.

The Complainant identified no trade marks incorporating or similar to HMRC or GOV HMRC owned by the Respondent and no evidence that it has ever trades using HMRC or GOV HMRC.

The disputed domain name does not resolve to an active website. It has therefore not been used in connection with a *bona fide* offering of goods or services. It is well established by, for example, *Microsoft Corporation v Charilaos Chrisochou*, WIPO Case No. [D2004-0186](#), as cited by the Complainant, that the passive holding of a domain name is insufficient to establish legitimate interests or *bona fide* use of a domain name.

The Panel also takes into account the failure of the Respondent to respond to the demand letter. If it had a legitimate right to use the disputed domain name it would have been able to state that fact and its supporting reasons in a reply.

In these circumstances, the Complainant asserts that it has established a *prima facie* case as contemplated by section 2.1 of [WIPO Overview 3.0](#). Having considered the evidence and the absence of a Response the Panel agrees with that submission and finds that the Complainant has satisfied Paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits that the website associated with the disputed domain name is "passively held" and as shown by Annex 05 does not resolve to an active website. Such passive holding constitutes bad faith. It relies upon section 3.3 of [WIPO Overview 3.0](#) to the effect that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

The Panel has an obligation to consider the totality of the circumstances but the following factors are relevant;

- i. The degree of distinctiveness or reputation of the complainant's mark;
- ii. The failure of a respondent to submit a response or to provide any evidence of actual or contemplated good -faith use;
- iii. The respondent's concealing its identity or use of false contact details;
- iv. The implausibility of any good faith use to which the domain name may be put.

The Complainant submits that based upon the evidence at Article Bundles A and B it is very well known in the UK and elsewhere and it has used the mark HMRC for many years prior to registration of the disputed domain name.

The Complainant notes that the Respondent did not reply to the demand letter and put forward any evidence of good faith use.

The Complainant points out that the Respondent has redacted, or allowed the redaction , of its details from the public WhoIs.

Given the widespread use and reputation of the Complainant as HMRC it is inconceivable that the Respondent could have registered the disputed domain name without the Complainant's marks in mind and with good-faith intentions. This is strengthened by the addition of the term "gov".

With regard to the top-level domain name ".info" the Complainant submits that given the Complainant's obligation to provide the public with information about tax related matters the use of ".info" serves only to heighten the confusion. The Panel agrees with this submission.

The Complainant draws attention to the fact that the disputed domain name is configured with MX records and is therefore capable of email communication. A recipient of an email originating from the disputed domain name would reasonably assume, contrary to the fact that it was sent from the Complainant.

The Complainant also relies upon the use of a privacy service by the Respondent as indicative of bad faith especially in the context of other indicia of bad faith.

Having considered these factors, the fact that the mark HMRC is well known internationally and the evidence adduced in respect of the Respondent the Panel is satisfied that the Complainant has established use and registration in bad faith within 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 <gov-hmrc.info> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: August 30, 2022