

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. tt zino
Case No. D2022-2477

1. The Parties

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

The Respondent is tt zino, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <govuk-hmrc-process-refund.com> is registered with 1API GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 7, 2022. On July 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 July 20, 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 July 20, 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 July 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 18, 2022.

The Center appointed Jane Seager as the sole panelist in this matter on September 9, 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

Formally known as “Her Majesty’s Revenue and Customs”, often shortened to “HM Revenue and Customs”, or “HMRC”, the Complainant is a non-ministerial department of the United Kingdom Government responsible for the collection of taxes, the payment of some forms of state support, and the administration of other regulatory regimes.

The Complainant is the owner of a number of relevant trademark registrations, including United Kingdom Trademark Registration No. 2471470, HMRC, registered on March 28, 2008.

The Complainant also operates a website within the United Kingdom Government’s website at “www.gov.uk/government/organisations/hm-revenue-customs”, which is accessible via the domain name <hmrc.gov.uk>.

The disputed domain name was registered on February 10, 2022. At the time of submission of the Complaint to the Center, as well as at the time of this Decision, the disputed domain name does not resolve to an active website. When viewed using certain web browsers, attempting to access the disputed domain name returned a warning notice that the website at the disputed domain name was unsafe, and may have been used for phishing or the distribution of malware.

On June 21, 2022, the Complainant’s representatives sent a notice to the Respondent via email, requesting, *inter alia*, transfer of the disputed domain name. The Respondent did not reply to the Complainant’s notice.

5. Parties’ Contentions

A. Complainant

The Complainant asserts rights in the trademark HMRC. The Complainant submits that the disputed domain name is confusingly similar to the Complainant’s trademark HMRC.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name in that the Respondent is not making use of the disputed domain name in connection with any *bona fide* offering of goods or services, the Respondent is not commonly known by the disputed domain name, the Respondent has not acquired any trademark rights that would give rise to any legitimate interests in the disputed domain name, the Respondent has not received any authorization to make use of the Complainant’s name or trademarks in a domain name or otherwise, and there is no evidence of the Respondent making any other legitimate use of the disputed domain name.

The Complainant further submits that the disputed domain name was registered and is being used in bad faith. The Complainant infers from the composition of the disputed domain name itself that the disputed domain name was registered for illegitimate purposes such as for phishing or the distribution of malware. The Complainant argues that the Respondent’s non-use of the disputed domain name amounts to bad-faith passive holding of the disputed domain name.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to prevail, the Complainant must demonstrate, on the balance of probabilities, that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights in the trademark HMRC, the registration details of which are provided in the factual background section above.

The disputed domain name comprises the Complainant's trademark HMRC, preceded by the element "govuk-", and followed by the element "-process-refund", under the generic Top-Level Domain ("gTLD") ".com". The Panel finds that the Complainant's trademark HMRC is recognizable in the disputed domain name, and that the presence of hyphens "-" and the elements "govuk", "process", and "refund" do not prevent a finding of confusing similarity; see [WIPO Overview 3.0](#), section 1.8; see also *The Commissioners for HM Revenue and Customs v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0957](#) (<hmrc-refundtax-uk.com>). The gTLD ".com" is viewed as a standard registration requirement, and may be disregarded for purposes of comparison under the first element; see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the disputed domain name to be confusingly similar to the trademark HMRC in which the Complainant has rights. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

As stated in [WIPO Overview 3.0](#), section 2.1:

"While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

As noted above, the disputed domain name does not resolve to an active website. Indeed, when attempting to access the disputed domain name, certain web browsers flag the website at the disputed domain name as being unsafe. There is no relationship between the Parties, nor has the Complainant granted any form of permission for the Respondent to make use of its trademark HMRC in any manner. There is no evidence of the Respondent having made any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

The Respondent is identified as “tt zino” in the information disclosed by the Registrar, which bears no resemblance to the disputed domain name, nor is there any evidence of the Respondent having acquired any trademark rights that reflect the disputed domain name. The Panel finds that the Respondent is not commonly known by the disputed domain name pursuant to paragraph 4(c)(ii) of the Policy.

The Panel further finds that the Respondent’s non-use of the disputed domain name does not give rise to any claim of legitimate noncommercial or fair use of the disputed domain name, as contemplated by paragraph 4(c)(iii) of the Policy. In this regard, prior UDRP panels have held that even where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Noting the similarities between the disputed domain name and the Complainant’s official domain name <hmrc.gov.uk>, as well as the inherent connection that the terms “govuk”, “process”, and “refund” have with the Complainant, the Panel considers that the disputed domain name carries an impermissible risk of implied affiliation with the Complainant’s trademark such that no readily apparent use of the disputed domain name could be made by the Respondent that would not have the effect of confusing Internet users as to the source of the disputed domain name.

For the above-stated reasons, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Respondent has not come forward to produce any evidence to rebut the Complainant’s case. The Panel therefore concludes that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The composition of the disputed domain name itself, which comprises the Complainant’s trademark HMRC in its entirety together with terms that are inherently associated with the Complainant, gives rise to an inference that the Respondent was well aware of the Complainant and its trademark HMRC. The Panel finds it more likely than not that the Respondent registered the disputed domain name, having no authorization from the Complainant to make use of its HMRC trademark as part of a domain name or otherwise, with a view to creating a misleading impression of association between the disputed domain name and the Complainant, in bad faith.

It is well established over a significant body of prior UDRP decisions that the non-use of a domain name would not prevent a finding of bad faith; see [WIPO Overview 3.0](#), section 3.3:

“While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the 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 (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Turning to the facts of the present case, the Panel notes that as the body responsible for, *inter alia*, the collection of taxes in the United Kingdom, the Complainant’s trademark HMRC is distinctive and is well known in the United Kingdom. The Respondent did not reply to the Complainant’s pre-Complaint notice, nor has the Respondent come forward in this proceeding to provide any evidence of actual or contemplated good-faith use of the disputed domain name. A search on the Respondent’s physical address, as disclosed by the Registrar for the disputed domain name reveals that the Respondent appears to have provided false or incomplete contact information upon registration of the disputed domain name. In the circumstances, the Panel cannot conceive of any good-faith use to which the disputed domain name could be put that would not have the effect of misleading Internet users. Indeed, the Complainant has produced evidence indicating that it is frequently the target of phishing, online scams, and other criminality. In this regard, the Complainant has made reference to a number of factors, which when read together, would tend to support a finding that the

disputed domain name could readily be used for abusive purposes, including:

- (i) registration of the disputed domain name comprising the Complainant's HMRC trademark together with additional descriptive terms;
- (ii) such additional terms are those closely associated with the Complainant and its activities, in this case the disputed domain name, which includes, *inter alia*, the descriptive terms "process refund", may be read as an online location where tax payers may apply for a tax refund;
- (iii) there are no qualifying terms in the disputed domain name that make the non-relationship between the Respondent and the Complainant clear and unambiguous (such as "unofficial"); and
- (iv) the disputed domain name does not appear to have been used in connection with an active website.

In light of the above, the Panel accepts the Complainant's submission that there is a reasonable likelihood that the disputed domain name could be used by the Respondent to engage in phishing, the distribution of malware, or other forms of online criminality targeting the United Kingdom public. The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii).

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 <govuk-hmrc-process-refund.com> be transferred to the Complainant.

/Jane Seager/

Jane Seager

Sole Panelist

Date: September 23, 2022