

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Ivan Popov,
Private Person
Case No. D2022-4777

1. The Parties

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

The Respondent is Ivan Popov, Private Person, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <hmrc-taxservice.com> is registered with Registrar of Domain Names REG.RU LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on December 13, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On December 20, 2022, the Center sent an email in English and Russian to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on December 20, 2022. The Respondent did not comment on the language of the proceeding.

The Center verified that the 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 in English and Russian of the Complaint, and the proceedings commenced on December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 24, 2023.

The Center appointed Clark W. Lackert as the sole panelist in this matter on January 25, 2023. 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 “His Majesty’s Revenue and Customs”, often using the abbreviation to “HM Revenue and Customs” or the acronym “HMRC”. The Complainant 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. 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 also has a website at “<https://www.gov.uk/government/organisations/hm-revenue-customs>” which can be accessed by the domain name <hmrc.gov.uk>. The Complainant is similar, although not identical to, the United States of America Internal Revenue Service (IRS) or the Canada Revenue Agency (CRA).

The Complainant is the owner of the following relevant UK trademark registrations:

Trademark	Registration Number	Registration Date
HMRC	UK00002471470	March 28, 2008
HM REVENUE & CUSTOMS and Crown Design	UK00003251234	December 29, 2017

Apart from registered trademark rights, the Complainant also has used the trademark HMRC in a number of different formats online and elsewhere creating common law trademark rights.

The Respondent defaulted and therefore has not supplied any information in this proceeding.

The disputed domain name was registered on November 5, 2022. The disputed domain name resolves to an inactive website.

5. Parties’ Contentions

A. Complainant

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 Complainant observes that there are characteristics which are common to domain names that have been used to target the Complainant and its customers for abusive purposes. These common features include, but are not necessarily limited to, the following:

- 1) The use of domain names made up of the Complainant’s marks and additional generic terms.
- 2) Additional terms are those associated closely with the Complainant and its activities and include words such as “tax”, “contact”, “gov” or “service” or suggest a call to action, such as “rebate”, “refund” or “demand”.
- 3) Terms associated with common Internet-related activities, such as “online”, “email” or “click”.
- 4) A lack of qualifying terms which make the relationship (or non-relationship) between the registrant and the Complainant clear and unambiguous, such as “unofficial”.

- 5) The use of visually similar domain names to the Complainant's marks, including typographical or homoglyph variants.
- 6) The use of false or redacted contact details on the Whois.
- 7) The use of the names and / or addresses of third parties on the Whois which have been acquired through identity theft.
- 8) Inactive websites, display of pay-per-click advertising or the use of default "parking pages".
- 9) The advertisement of premium rate telephone numbers impersonating the Complainant's own helpline.
- 10) Presence of mail exchanger (MX) records in a domain name's zone file, indicating that the domain name can be used to receive email.

The Complainant asserts that in most circumstances domain names which match one or more of the criteria noted above are likely to have been registered and used in bad faith. Equally, the Complainant claims that the more criteria which are matched, the greater the likelihood of bad faith registration and use. Furthermore, where there is direct evidence that a domain name has been registered for fraudulent use then these will be, by definition, registered and used in bad faith.

The Complainant notes that it has successfully asserted its rights in previous cases under the UDRP including *The Commissioners for HM Revenue and Customs v. Wei Wang, APIS*, WIPO Case No. [D2017-1492](#), which involved the domain names that also incorporated the Complainant's HMRC mark and the generic term "tax service" concerning the domain names <hmrc-tax-service.com>, <service-hmrc-tax.com>, and <tax-hmrc-service.com>, in which all three disputed domain names were transferred.

In terms of web services, the Complainant observes that at the time of this submission, the disputed domain name does not resolve to an active website. One of the browsers used by the Complainant to view the website associated with the disputed domain name – Firefox – reports that the disputed domain name is a "Deceptive site!". The Complainant further observes that Google's Safe Browsing service reports that the disputed domain name is unsafe and "The site hmrc-taxservice.com contains harmful content, including pages that: Try to trick visitors into sharing personal info or downloading software". The Complainant has a reasonable belief, given that the disputed domain name has been flagged for phishing or malware distribution by a reputable third-party security service, that the disputed domain name has been, or is being, used for potentially criminal purposes.

The Complainant has found no evidence that the Respondent has been commonly known by the names HRMC or HMRC Tax Service prior to or after the registration of the disputed domain name. The Respondent is not a licensee of the Complainant and has not received any permission, consent or acquiescence from the Complainant to use its marks or name in association with the registration of the disputed domain name or, indeed, any domain name, service or product.

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

As the Complainant noted above, the disputed domain name does not resolve to an active website which constitutes passive holding. As such, the disputed domain name has not been used in connection with a *bona fide* offering of goods or services. In terms of passive holding and its relation to rights or legitimate interests, the Panel's attention is respectfully drawn to *Microsoft Corporation v. Charilaos Chrischoou*, WIPO Case No. [D2004-0186](#), in which the panel held: "The Respondent is not currently making an active use of the domain name. According to previous panel decisions under the UDRP, the passive holding of

domain names has however not been deemed sufficient to establish legitimate interests or *bona fide* use of a domain name.” On this analysis, the Complainant asserts that the Respondent cannot obtain or derive any rights or legitimate interests through its passive holding of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issue – Language of the Proceeding

The Panel supports the finding of the Center that in view of all the facts, this case should follow the language procedures provided by the Center.

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Russian. Under paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant submitted its Complaint in English, and requests the proceeding to be held in English. The Center has sent all its relevant email communications to the Respondent in both English and Russian, and has invited the Respondent to express his views on the language of the proceeding. The Respondent has not responded to this invitation and has thus not objected to the Complainant’s request that the proceeding be held in English. The disputed domain name incorporates the Complainant’s trademark plus the term “tax service” in English.

The Panel therefore accepts the Complainant’s language request based upon the reasons set forth above. The Panel also finds that it fair and procedurally efficient for English to be the language of the proceeding under the circumstances of this case.

6.2. Substantive Issue

The Panel has reviewed the Complaint, all supporting evidence, and the proceeding history as set forth in the record. The Panel notes that no response has been filed in this proceeding, and that the record supports a decision in the Complainant’s favor.

A. Identical or Confusingly Similar

The disputed domain name consists of the trademark HMRC used and registered by the Complainant for a governmental tax service, together with the descriptive term “tax service”. It is well established that the addition of other terms (descriptive or non-distinctive), such as “tax”, “service”, “tax service”, or “taxservice” to a disputed domain name does not prevent a finding of confusing similarity. In the case of *The Commissioners for HM Revenue and Customs v. Wei Wang, APIS*, WIPO Case No. [D2017-1492](#) which concerned the domain names <hmrc-tax-service.com>, <service-hmrc-tax.com> and <tax-hmrc-service.com>, the panel, ruling in favor of the Complainant, held: “It is well established that the addition of a descriptive word to a trademark in a domain name, particularly when such additional words relate to the goods or services with which the mark is used, does not avoid confusing similarity. See *eBay Inc. v. ebayMoving / Izik Apo*, WIPO Case No. [D2006-1307](#).” See in addition *F5 Networks, Inc. v. Dennis Brooks*, WIPO Case No. [D2016-2476](#) (concerning the domain name <f5-incorporated.com> wherein the descriptive term “incorporated” was discounted for analyzing confusing similarity); *ASOS PLC et al. v. Liu Bing*,

WIPO Case No. [D2022-0604](#) (transferring the domain name <missselfridgeshop.com> because “the term ‘shop’ is merely a descriptive term and thus does not prevent a finding of confusing similarity” with the Complainant’s MISS SELFRIDGE trademark); and *Skorpio Ltd. v. Li Huaiqing*, WIPO Case No. [D2022-0538](#) (transferring the domain name <therickowenshop.com> because the addition of the terms “the” and “shop” did not prevent a finding of confusing similarity). In WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, the issue is described as: “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.” In the instant case, the disputed domain name uses the Complainant’s trademark HMRC in its entirety, coupled with a few descriptive terms which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s HMRC trademark.

The Panelist finds that the requirements of paragraph 4(a)(i) of the Policy have been satisfied.

B. Rights or Legitimate Interests

The record does not contain any evidence to indicate that the Respondent has any rights or legitimate interests in using the Complainant’s HMRC trademark in a domain name.

The Complainant has established a *prima facie* case which has not been rebutted by the Respondent.

Moreover, the nature of the disputed domain name, incorporating the Complainant’s HMRC mark in its entirety plus a term “tax service” related to the Complainant’s service, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The Panelist finds that the requirements of paragraph 4(a)(ii) of the Policy have been satisfied.

C. Registered and Used in Bad Faith

The Respondent has been passively holding the disputed domain name which incorporates the Complainant’s trademark, and the disputed domain name resolves to a website which has been flagged by reputable third parties such as Google and Firefox as “suspicious” or as having been used for malicious purposes.

As [WIPO Overview 3.0](#), section 3.3 states: “ From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding. 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.” In this case, all of these factors can be seen to favor the position of the Complainant: the well-known tax collection service of the UK government, the default of the Respondent, the suspicious nature of the website and its owner, and the implausible nature of the possibility that the disputed domain name would be put in any good faith use.

Moreover, the use of the widely-known trademark HMRC plus a descriptive term will show up in search engines for consumers trying to find the website of the Complainant therefore promoting misdirection of Internet traffic, particularly since the Complainant’s domain name is <hmrc-tax-service.com>. This evidence of bad faith is worsened by the “suspicious” nature of the website. Moreover, the registration of a domain name that copies a widely-known mark indicates an intent to target that mark to promote misdirection of Internet traffic, evidence of bad faith. See, e.g., *The Dow Chemical Company v. dowchemical eva_hwang@21cn.com +86.7508126859*, WIPO Case No. [D2008-1078](#) (finding <dowaychemical.com> registered in bad faith in view of the “widely known trademarks” of the complainant). As [WIPO Overview 3.0](#),

section 3.1.4 states: “Panels 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.”

The Panelist finds that the requirements of paragraph 4(a)(iii) of the Policy have been satisfied.

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 <hmrc-taxservice.com> be transferred to the Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: February 6, 2023