

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. notification hmrc,
Alexandru Eatca
Case No. D2022-4778

1. The Parties

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

The Respondent is notification hmrc, Alexandru Eatca, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <notificationhmrc.com> is registered with Register SPA (the “Registrar”).

3. Procedural History

The Complaint was filed 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 15, 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 (Domain Proxy Service, Domain Proxy Service. LCN.com Limited) and its contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 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 December 16, 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 December 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 26, 2023.

The Center appointed Alan L. Limbury as the sole panelist in this matter on February 3, 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

Established by The Commissioners for Revenue and Customs Act, 2005, 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. Since the accession of Charles III, the Complainant is formally known as “His Majesty’s Revenue and Customs”. During the reign of Elizabeth II, the Complainant was formally known as “Her Majesty’s Revenue and Customs, often shortened to “HM Revenue and Customs” or “HMRC”.

The Complainant is the registrant of United Kingdom trademark HMRC, Reg. No. 2471470, registered on March 28, 2008, in classes 9, 16, 35, 36, 38, 41 and 45.

The disputed domain name was registered on November 21, 2022, and at the time of the filing of the Complaint resolved to a hosting website by the Registrar. At the time of drafting this Decision, the disputed domain name does not resolve to an active page.

5. Parties’ Contentions

A. Complainant

The disputed domain name is confusingly similar to the HMRC trademark in which the Complainant has rights, only differing by the addition of the generic term “notification”. As a tax authority in the United Kingdom, the Complainant notifies taxpayers of their payments.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has found no evidence that the Respondent has been commonly known by the names HRMC or NOTIFICATION HMRC 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 mark in association with the registration of the disputed domain name nor 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 NOTIFICATION HMRC, nor that the Respondent has ever traded or operated as HRMC or NOTIFICATION HMRC. The disputed domain name does not resolve to an active website but to a default holding page by the Registrar, which constitutes passive holding and, as such, the disputed domain name has not been used in connection with a *bona fide* offering of goods or services. Finally, the Respondent did not reply to a communication from the Complainant’s agent.

The disputed domain name was registered and is being used in bad faith. The Respondent’s passive holding of the disputed domain name constitutes bad faith. The Complainant is very well known in both in the United Kingdom and beyond and its HMRC mark has been used for many years prior to the registration of the disputed domain name. The Respondent did not respond to the Complainant’s letter and has therefore put forward no evidence of any contemplated good faith use. The Respondent concealed its identity when registering the disputed domain name. Given the fame, widespread use and reputation of the Complainant, it is inconceivable that the Respondent could have registered the disputed domain name without the Complainant’s mark in mind and with good-faith intentions. This is especially so given the inclusion of the generic adornment “notification” which is closely related the Complainant’s tax notification services. The disputed domain name is configured with MX records and is therefore capable of email communication. Since the disputed domain name is confusingly similar to the Complainant’s name and

mark, anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainant. The use of a privacy service by the Respondent is further indication of bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Preliminary Matter

The Panel notes that the originally named Respondent (Domain Proxy Service, Domain Proxy Service. LCN.com Limited) is a privacy or proxy service. Since the Registrar has timely disclosed the underlying registrant upon receipt of the Center's Request for Registrar Verification, the Panel considers it appropriate to exercise its discretion to record only the underlying registrant as the named Respondent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 4.4.5.

Substantive Matters

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

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See [WIPO Overview 3.0](#) at section 4.3.

A. Identical or Confusingly Similar

The Complainant has shown that it has rights in United Kingdom registered trademark HMRC, Reg. No. 2471470, registered on March 28, 2008, in classes 9, 16, 35, 36, 38, 41 and 45. The Panel finds the disputed domain name to be confusingly similar to the Complainant's mark since it incorporates the mark in its entirety, adding the word "notification" which does not prevent the Complainant's trademark from being recognizable in the disputed domain name.

The inconsequential Top-Level Domain ".com" may be ignored.

The Complainant has established this element.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy, *i.e.*

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the 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 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 domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The disputed domain name was registered on November 21, 2022, many years after the Complainant has shown that its HMRC mark had become very well known, particularly in the United Kingdom, where the Respondent apparently resides. The disputed domain name does not resolve to an active website but is configured with MX records and is therefore capable of email communication purporting to emanate from the Complainant. These circumstances, together with the Complainant's assertions, are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant has established this element.

C. Registered and Used in Bad Faith

The four illustrative circumstances set out in paragraph 4(b) of the Policy as evidence of the registration and use of a domain name in bad faith for the purposes of paragraph 4(a)(iii) are not exclusive.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's famous HMRC mark when the Respondent registered the disputed domain name and that it is more likely than not that the Respondent did so in order to mislead unsuspecting Internet users. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

As to use, the Panel notes that, since its registration, the disputed domain name has not resolved to an active website. The [WIPO Overview 3.0](#) at 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."

The Panel finds that, as in the leading case of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), which also involved a well-known trademark, there is no plausible good faith active

use that could be made of the inherently misleading disputed domain name. Accordingly, the Panel finds that the Respondent's use of the disputed domain name constitutes use in bad faith.

The Complainant has established this element.

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, <notificationhmrc.com> be transferred to the Complainant.

/Alan L. Limbury/

Alan L. Limbury

Sole Panelist

Date: February 17, 2023