

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Archil Avaliani Case No. D2023-2471

1. The Parties

The Complainant is The Commissioners for HM Revenue and Customs, United Kingdom (“UK”) represented by Demys Limited, UK.

The Respondent is Archil Avaliani, Georgia.

2. The Domain Name and Registrar

The disputed domain name <refund-hmrc-tax.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 8, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 15, 2023 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 June 15, 2023.

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 June 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 20, 2023.

The Center appointed Gonçalo M. C. Da Cunha Ferreira as the sole panelist in this matter on August 2, 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 a non-ministerial department of the UK Government responsible for the collection of taxes, the payment of some forms of state support and the administration of other regulatory regimes. In its present form and with its current name, the Complainant was created by the merger of the Inland Revenue and HM Customs and Excise in April 2005 and was established in The Commissioners for Revenue and Customs Act 2005.

Although formally known as “Her Majesty’s Revenue and Customs”, the Complainant is often referred to as “HM Revenue and Customs” or simply “HMRC”.

The Complainant has several relevant UK trademarks, among others the trademark number UK00002471470 HMRC registered on March 28, 2008 for the following classes 9, 16, 35, 36, 41 & 45 and the trademark UK00003251234 HM REVENUE & CUSTOMS registered on December 29, 2017 for the classes 9, 16, 35, 36, 41 & 45.

The Complainant is responsible for the administration and collection of direct taxes within the UK including income tax, corporation tax, capital gains tax and inheritance tax, collecting indirect taxes including value added tax, excise duties and stamp duty land tax and environmental taxes such as the climate change and aggregates levy and landfill tax.

The Complainant also have the responsibilities of the collections of national insurance contributions, the distribution of child benefit and some other forms of state support including the child trust fund, payments of tax credits and enforcement of the national minimum wage. 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 within the UK Government’s official portal at the URL “www.gov.uk/government/organisations/hm-revenue-customs”.

The disputed domain name was created on April 8, 2023, and resolves to a pay-per-click advertising webpage.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its marks because it only differs by the addition of the dictionary words “refund” and “tax”.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name because 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 HMRC or Refund HMRC Tax or any evidence that the Respondent has ever traded or operated as HMRC or Refund HMRC Tax.

The Complainant asserts that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. The Complainant further asserts that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark.

The Complainant avers that the disputed domain name falsely suggest affiliation between the Respondent and the Complainant, since the disputed domain name incorporates the Complainant’s well-known HMRC mark combined with the adornment that is closely associated with the Complainant and its activities.

The Complainant further contends that an Internet user typing in the disputed domain name or finding it via a search engine, would reasonably expect the disputed domain name to be associated with, sponsored or endorsed by the Complainant.

The Complainant contends that the pay-per-click advertising links capitalize on the value and recognition of the Complainant's HMRC mark. The disputed domain name uses the attractive force of the Complainant's highly distinctive name and mark in order to misdirect Internet users to third-party advertising.

The Complainant observes that the Respondent has listed the disputed domain name for sale for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name. As such, the Complainant avers that the Respondent registered the disputed domain name as a pretext for commercial gain or other such purposes inhering to the Respondent's benefit.

The Complainant avers that the use of the disputed domain name for criminal activity, such as phishing, could not give the Respondent a legitimate interest in the disputed domain name.

The Complainant asserts that it is inconceivable that the Respondent did not have the Complainant firmly in mind when he registered the disputed domain name.

The Complainant asserts that attempting to sell the disputed domain name, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name, is strongly indicative that the Respondent had a bad faith intent when he registered the disputed domain name.

Finally, the Complainant argues that the use of a privacy service by the Respondent is indicative of bad faith.

B. Respondent

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

6. Discussion and Findings

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

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (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 has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four non-exhaustive illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three non-exhaustive illustrative circumstances any one of which, if prove by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown trademark rights in HMRC for the purposes of the Policy. The disputed domain name incorporates the Complainant's trademark HMRC in its entirety, simply adding

the terms “refund” and “tax” separated by hyphens. As the Complainant’s trademark HMRC is clearly recognizable within the disputed domain name, the Panel finds that the addition of other terms and hyphens does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has not licensed or otherwise permitted the Respondent to use any trademark or to register a domain name incorporating its HMRC trademark. The evidence provided by the Complainant shows that the disputed domain name resolves to a website displaying pay-per-click links related to the Complainant and its activities.

The Complainant also has made a *prima facie* case that the Respondent lacks any rights or legitimate interests in the disputed domain name. As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1). The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel accepts and agrees with the Complainant that the disputed domain name was registered and has been used in bad faith, since the disputed domain name, which incorporates the Complainant’s prior registered trademarks with the additional terms related to the Complainant’s services, resolves to a pay-per-click advertising webpage containing third-party commercial advertising links related to the Complainant and its activities which shows that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant’s mark.

Moreover, the use of a privacy service by the Respondent and the Respondent’s offer to sell the disputed domain name is further indicative of bad faith.

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied 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, <refund-hmrc-tax.com>, be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: August 16, 2023