

## **ADMINISTRATIVE PANEL DECISION**

### The Commissioners for HM Revenue and Customs v. Jason L Monroe Case No. D2023-2743

#### **1. The Parties**

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

The Respondent is Jason L Monroe, United States of America.

#### **2. The Domain Name and Registrar**

The disputed domain name <hmrlogin.com> (the “Disputed Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2023. On June 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 28, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 30, 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 30, 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 July 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 28, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on August 11, 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 was established, in its present form and with its current name, in 2005, and 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. The Complainant holds a number of registrations for the trademark HMRC and HM REVENUE & CUSTOMS in the UK including, for example: UK Trademark Registration No. UK00002471470 for HMRC, registered on March 28, 2008, in classes 9, 16, 35, 36, 41, and 45; and UK Trademark Registration No. UK00003251234 for HM REVENUE & CUSTOMS, registered on December 29, 2017, also in classes 9, 16, 35, 36, 41, and 45.

The Complainant also uses a domain name <hmrc.gov.uk> that resolves to the official website for the Complainant that is operated by the UK Government.

The Disputed Domain Name was registered on September 28, 2022. The Disputed Domain Name resolves to a pay-per-click (“PPC”) parking page that also displays information and services relating to VAT registration, a reference to the UK’s “value-added-tax” administered by the Complainant.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant cites its trademark registrations for the marks HMRC and HM REVENUE & CUSTOMS as *prima facie* evidence of ownership.

The Complainant submits that its rights in the mark HMRC predates the Respondent’s registration of the Disputed Domain Name. It submits that “the [D]isputed [D]omain [N]ame is confusingly similar to its marks in that it only differs by the addition of the generic, dictionary word term ‘login’. As the Complainant offers online access to its services via logging in from the URL ‘www.gov.uk/log-in-register-hmrc-onlineservices’, the Complainant avers that the adornment ‘login’ is closely associated with its activities” and that the similarity is not removed by the addition of the generic Top-Level Domain (“gTLD”) “.com”.

The Complainant contends that the letters “hmrc” are an acronym of HM REVENUE & CUSTOMS and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant contends that it “has found no evidence that the Respondent has been commonly known by the names HMRC or HMRC LOGIN”. It also contends that “the Respondent is not using the [D]isputed [D]omain [N]ame in connection with a *bona fide* offering of goods or services” and that the configuration of the Disputed Domain Name’s mail exchange (“MX”) record risks use of the Disputed Domain Name for phishing and other unlawful activity.

Finally, the Complainant alleges that the Respondent registered and is using the Disputed Domain Name in bad faith and that “the display of pay-per-click advertising in association with a domain name that is confusingly similar to a complainant’s trademark was sufficient on its own for a finding of registration and use in bad faith”.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

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

### A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark HMRC in the UK. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the HMRC trademark, the Panel observes that the Disputed Domain Name comprises: (a) the Complainant's trademark HMRC; (b) followed by the word "login"; and (c) followed by the gTLD ".com".

It is well-established that the gTLD used as technical part of a domain name registration may be disregarded. The relevant comparison to be made is with the Second-Level portion of the Disputed Domain Name, specifically: "hmrclogin" (see section 1.11.1 of the [WIPO Overview 3.0](#)).

In this case, the Disputed Domain Name incorporates the entirety of the Complainant's trademark along with the word "login". It is also well-established that in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

The Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant needs only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because (i) the Respondent is not using the Disputed Domain Name in connection with a *bona fide* offering of goods or services; (ii) the Respondent has not acquired or owned any trademark or service mark rights in the name "hmrc", and has not been commonly known by the name "hmrc"; and (iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain.

The Complainant further contends that the Respondent is not a licensee of the Complainant and has not received any permission from the Complainant to use its marks or name in association with the registration of the Disputed Domain Name (incorporating the Complainant's mark). Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name. The Panel accepts the Complainant's uncontested

submission that “the pay-per-click advertising links capitalize on the value and recognition of the Complainant’s HMRC mark”.

This Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because he is engaging in an illegitimate commercial use of the Disputed Domain Name by suggesting some association with the Complainant for the purpose of misleading consumers based on users seeking out the Complainant’s mark HMRC and opportunistically using the Complainant’s trademark to divert Internet traffic to his PPC landing page.

The Panel finds for the Complainant on this element of the Policy.

### **C. Registered and Used in Bad Faith**

The third element of the Policy requires that the Complainant must also demonstrate that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, given the composition of the Disputed Domain Name, the Panel is satisfied that the Respondent targeted the Complainant’s trademark HMRC when he registered the Disputed Domain Name and the Panel is prepared to infer that the Respondent knew, or should have known, that the registration of the Disputed Domain Name would be identical or confusingly similar to the Complainant’s trademark (see [WIPO Overview 3.0](#), section 3.2.2).

In addition, the gap of several years between registration of the Complainant’s trademark and the Respondent’s registration of the Disputed Domain Name, along with the composition of the Disputed Domain Name (containing an exact reproduction of the Complainant’s well-known trademark with an additional term related to the use of the Complainant’s online services) in the circumstances of this case is a further indicator of bad faith. In this case, the Complainant’s rights in its HMRC trademark predate any rights that could possibly flow from the Respondent’s registration of the Disputed Domain Name by approximately 14 years.

On the issue of use, the Complainant’s evidence is that the Disputed Domain Names resolves to a PPC landing page displaying links that redirect Internet traffic to websites offering VAT related services unaffiliated with the Complainant. This Panel accepts the Complainant’s uncontested evidence as evidence of bad faith use. Targeting of this nature is a common example of bad faith as referred to in paragraph 4(b)(iv) of the Policy and identified in many previous UDRP decisions (see [WIPO Overview 3.0](#), sections 3.1.4, and 3.2.1).

In the absence of responsive evidence to the contrary, this Panel accepts the Complainant’s evidence and finds that the Respondent has registered and used the Complainant’s trademark HMRC in the Disputed Domain Name, without the Complainant’s consent or authorization, for the likely purpose of capitalizing on the reputation of the trademark to infringe upon the Complainant’s rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 <hmrlogin.com> be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: August 24, 2023