

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. isaac jonas, a
Case No. D2023-2891

1. The Parties

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

The Respondent is isaac jonas, a, UK.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2023. On July 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 7, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 7, 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 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2023.

The Center appointed Aaron Newell as the sole panelist in this matter on August 4, 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:

- i) is the tax authority in the UK and is entirely responsible for managing and gathering direct taxes in the UK;
- ii) has been known by the name HMRC (an acronym for “[Her/His] Majesty’s Revenue and Customs” since 2005;
- iii) owns UK trade mark registration no. UK00002471470 for the trade mark HMRC (a word mark, filed November 5, 2007, and registered March 28, 2008 in classes 9, 16, 35, 36, 38, 41, and 45), and UK trade mark registration no. UK00003251234 for the trade mark HM REVENUE & CUSTOMS (a logo mark, filed August 18, 2017, and registered December 29, 2017 in classes 9, 16, 35, 36, 41, and 45);
- iv) has provided evidence demonstrating that it has been impersonated by scammers numerous times in the past;
- v) has been successful in enforcing its rights in numerous other UDRP proceedings prior to this one;
- vi) attempted to resolve this matter by writing to the Respondent prior to commencing these proceedings, but received no response;
- vii) has provided evidence that the Respondent does not appear to have used the disputed domain name, and that the disputed domain name has loaded only a placeholder website supplied by the Registrar, and which encourages the owner of the disputed domain name to use more of the Registrar’s services.

The disputed domain name was registered June 8, 2023. The publicly-available Whois information shows a privacy service.

The Panel notes that the Respondent also did not respond to the Complaint or otherwise engage in the proceedings.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that:

- i) the disputed domain name is identical and/or confusingly similar to the trade mark rights noted above;
- ii) it owns unregistered rights in the name HMRC by way of its longstanding use of and reputation in this name;
- iii) the Respondent has no rights or legitimate interests with respect to the disputed domain name as it is not known by the name HMRC, has no known rights in the name HMRC and is not authorized to use the Complainant’s trade marks; and
- iv) the Respondent is passively holding the disputed domain name and would have known about the Complainant’s longstanding use of the trade mark HMRC, and that this along with the Respondent’s use of a privacy service and its failure to engage with the Complainant indicate 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

Paragraph 4(a) of the Policy requires that the Complainant prove:

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

The Panel finds as follows:

A. Identical or Confusingly Similar

Discounting the generic Top-Level Domain “.com” extension, the disputed domain name contains the Complainant's registered trade mark HMRC in its entirety. Panels frequently find that the inclusion of an entire registered mark renders the disputed domain name confusingly similar to that trade mark.

In this case, the use of the term “tax” in the disputed domain name does not prevent a finding of confusing similarity as the Complainant's trade mark remains easily recognizable in the disputed domain name.

The Panel finds that disputed domain name is confusingly similar to a trade mark in which the Complainant has rights. The Complainant has met the first requirement.

In light of this finding, the Panel does not consider it necessary to assess the extent of the Complainant's asserted unregistered rights.

B. Rights or Legitimate Interests

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.

By way of its assertions outlined above in section 5.A. iii) and iv), the Complainant has made out a *prima facie* case that the Respondent does not have rights and/or legitimate interests in the disputed domain name.

The Respondent did not respond, and therefore has done nothing to challenge the Complainant's *prima facie* case.

Accordingly, there is no basis on which the Panel can find that the Respondent has any rights or legitimate interests in the disputed domain name.

The Complainant has therefore met the second requirement.

C. Registered and Used in Bad Faith

The disputed domain name resolves to the Registrar's parking page and is effectively passively held. The Complainant has referred to section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which notes:

"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."

With respective reference to the listed factors, the Panel finds that: i) the Complainant's HMRC trade mark would most likely be known to most tax-paying adults in the UK, ii) the Respondent did not reply to the Complainant or engage with the proceedings, and accordingly failed to provide any explanation for its registration of the disputed domain name, much less any good faith reason for doing so, iii) the Respondent used a privacy service to conceal its identity on the Whois record for the disputed domain name, and iv) particularly in the absence of an explanation from the Respondent in choosing a domain name incorporating the entirety of the Complainant's HMRC trade mark together with a term closely related to the Complainant's activities, and noting the numerous instances of third party misuse of the HMRC trade mark in domain names in order to perpetuate scams, there is in the present circumstances no obvious good faith use to which the disputed domain name could be put.

On this basis the Panel considers that the Complainant has met the third requirement and that the disputed domain name was registered and is being used in bad faith.

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-tax.com>, be transferred to the Complainant.

/Aaron Newell/

Aaron Newell

Sole Panelist

Date: August 18, 2023