

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Charles Ofofu, Charles Ofofu

Case No. D2023-4323

1. The Parties

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

The Respondent is Charles Ofofu, Charles Ofofu, Ghana

2. The Domain Name and Registrar

The disputed domain name <hmrctaxs.site> is registered with eNom, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 19, 2023. On October 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 20, 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 (Proxy Protection LLC 926065283) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 23, 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 October 24, 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 October 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 21, 2023.

The Center appointed Charles Gielen as the sole panelist in this matter on November 24, 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 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. It is known since 2005 as “HM Revenue and Customs” or the initialism “HMRC”.

The Complainant is the owner of the following HMRC trademark:

- UK Trade Mark HMRC No. UK00002471470 registered on March 28, 2008.

Furthermore, the Complainant claims unregistered rights in the initialism “HMRC”, a name used on several social media, in the press and other third-party publications. The Complainant uses the domain name <hmrc.gov.uk>.

The Domain Name was registered on August 28, 2023, and resolves to a website offering tax consultancy services in which the names “HM Revenue & Customs (HMRC)” and “HMRC” are being used.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that is well-known under the abbreviation “HMRC” in use since many years. 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. It also collects 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. Other aspects of the Complainant’s responsibilities include 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 contends that the disputed domain name is confusingly similar to its marks in that it only differs by the addition of the generic, dictionary word term “tax” and the single letter “s”. The addition of the single letter “s” to the term “tax” could also be seen as a typographical (and phonetically identical) version of the plural term of “tax” (namely “taxes”). By virtue of it being the United Kingdom’s governmental tax authority, the Complainant argues that the term “tax” is inherently associated with the Complainant and its activities. Viewed as a whole, the Complainant’s mark is the most prominent, dominant, and distinctive element of the disputed domain name. When combined with the Complainant’s well-known mark, the adornments “tax” and “s” do not dispel any possibility of confusion but instead do the opposite and increase the potential for confusion among Internet users. The Complainant avers that the top-level domain name is required only for technical reasons and, as is common in proceedings under the UDRP, can be ignored for the purposes of comparison of the disputed domain name to the Complainant’s marks.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has found no evidence that the Respondent has been commonly known by the names HRMC or HMRC TAX S 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 contends that the Respondent has not made a legitimate noncommercial or fair use of the disputed domain name and that its intention, when it registered the disputed domain name, was to misleadingly divert consumers and to tarnish the Complainant's trade marks. The Complainant alleges that the Respondent's website gives the impression at first glance that it is operated or endorsed by the Complainant. This is evidenced by the constant use by the Respondent of the Complainant's trade marks "HM Revenue & Customs" and "HMRC" throughout the website, by the self-description of the Respondent, falsely referring to itself as the Complainant (namely, "HM Revenue & Customs") and the use of the Complainant's official registered address as the Respondent's own (namely, "100 Parliament St, London SW1A 2BQ, United Kingdom").

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Complainant gives several reasons for this. Regarding the registration of the disputed domain name, the Complainant argues that the disputed domain name is confusing to Internet users in and of itself. Such confusion is inevitable given that the disputed domain name is confusingly similar to the Complainant's name and marks, differing only from the Complainant's name and marks by the generic adornments "tax" and "s". The Complainant contends that Internet users seeing the disputed domain name would reasonably assume that any website or email sent from the disputed domain name was sent by, connected with, or otherwise endorsed by the Complainant when it is not. Furthermore, regarding the use of the disputed domain name, by falsely referring to itself on its website as "HM Revenue & Customs" and by using the trademark HMRC, the Respondent gives the impression to be operated or endorsed by the Complainant with no disclaimers informing Internet users about the lack of relationship between the Parties. Finally, the Complainant points at other indicia that show the bad faith intentions of the Respondent. In particular, the Complainant argues that the Respondent's website allows the use of email communication under the disputed domain name with the result that anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainant causing confusion as the origin of such email. Also, the bad faith intentions of the Respondent follow from the fact that at the time of registering the disputed domain name, the Respondent was using a privacy service to hide its identity.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Also, the Panel finds the Complainant has established unregistered trade mark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The only difference between the trade mark and the disputed domain name (leaving aside the TLD ".site") is the addition of the generic term tax (with an "s").

The Panel is of the opinion that applying these principles to this case, the disputed domain name is confusingly similar to the trade mark.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 disputed domain name (although the burden of proof always remains on the Complainant). If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The record shows that the Respondent is not using the disputed domain name to provide a bona fide offering of goods or services nor a legitimate noncommercial or fair use, on the contrary. The Respondent uses the disputed domain name with the intent to confuse Internet users as to the origin of the Respondent’s website. Also, at the time of filing of the complaint, the Respondent was using a privacy service, which according to the Panel shows a lack of legitimate interests.

In view of the aforementioned, the Panel is of the opinion that the requirement of paragraph 4(a)(ii) of the Policy is met.

C. Registered and Used in Bad Faith

The Panel is of the opinion that the disputed domain name was registered and is being used in bad faith. With respect to the registration, the Panel finds that it is plausible that the Respondent must have been aware of the Complainant’s earlier trade mark when it registered the disputed domain name. As the Complainant convincingly argues, the trade mark HMRC is a well-known trade mark, and it has been in use for quite some time.

In the present case, the Panel notes that the Respondent registered the disputed domain name which clearly contains the well-known distinctive trade mark of the Complainant causing confusion in itself with the activities of the Complainant. This makes the registration a bad faith registration. Regarding the use of the disputed domain name, the Panel decides that such use is bad faith use, because it directs to a website on which not only the trade mark of the Complainant is used in a highly misleading manner, giving the impression it is associated with the Complaint (when it plainly is not) but which also offers services in the area of tax referring to the address of the Complainant. Such use is misleading and confusing because Internet users will think that the website originates from the Complainant.

The Panel further notes that the website of the Respondent allows the use of email communication under the disputed domain name with the result that anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainant causing confusion as the origin of such email. Also, the bad faith intentions of the Respondent follow from the fact that at the time of registering the disputed domain name, the Respondent was using a privacy service to hide its identity.

The Panel therefore considers the requirement of paragraph 4(a)(iii) of the Policy to be met.

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 <hmrctaxs.site> be transferred to the Complainant.

/Charles Gielen/

Charles Gielen

Sole Panelist

Date: December 1, 2023