

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Zhu Di
Case No. D2023-4476

1. The Parties

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

The Respondent is Zhu Di, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hmrc-contact.top> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 27, 2023. On October 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 27, 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, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 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 November 10, 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 November 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2023.

The Center appointed Iris Quadrio as the sole panelist in this matter on December 21, 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 from the UK Government responsible for the collection of taxes, the payment of some forms of state support, and the administration of other regulatory state regimes. It was created by the merger of the Inland Revenue and HM Customs and Excise in April 2005.

Furthermore, 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 collection 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.

The Complainant explains that there are characteristics which are common to domain names that have been frequently used to target the Complainant and its customers for phishing, online scams, and other criminality. Some of these features are: The use of domain names made up of the Complainant's marks and additional generic terms, display of pay-per-click advertising or the use of default parking pages, terms associated with common Internet-related activities, such as "online", "site", "email" or "click", among others. These assertions are exhibited in the evidence offered by the Complainant as Article Bundle A.

The Complainant is the owner of some UK trademarks for HMRC including registration no. UK00002471470 registered on March 28, 2008, for cl. 9, 16, 35, 36, 41, 45, and registration no. UK00003251234 registered on December 29, 2017, for cl. 9, 16, 35, 36, 41, and 45.

In fact, the Complainant claims to be very well known in the UK and around the world as HMRC. To illustrate this, the Complainant has provided evidence of the number of followers on Facebook (129,000), X (406,300) and on Instagram (27,000) and of the number of subscribers in YouTube (65,400), as shown in annexes 8 and 9 to the Complaint.

The Complainant tried to resolve this dispute outside of this administrative proceeding by sending a letter to the Respondent on October 26, 2023, which remained unanswered (as per Annex 6).

Finally, the disputed domain name was registered in September 2023, and resolves to an inactive website.

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 claims that the disputed domain name is confusingly similar to its trademark HMRC, on which the Complainant has prior rights.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name, nor is he related in any way to the Complainant. Neither license nor authorization has been

granted to the Respondent to make any use of the Complainant's trademark HMRC or apply for registration of the disputed domain names.

More specifically, the Complainant alleged that the Respondent is passively holding the disputed domain name.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

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 trademark 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 trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced 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.

Although the addition of other terms, such as "contact", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the ".top" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Based on the available record, the Panel finds the first element of the Policy has been established.

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 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.

Having reviewed the available record, the Panel finds 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 Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademark HMRC nor is there any other evidence in the case file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name.

Additionally, the Respondent is passively holding the disputed domain name, therefore, this Panel considers that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods and services. Lastly, the composition of the disputed domain name, combining the Complainant's acronymic trademark with the term "contact", carries a risk of implied affiliation that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In such connection, the Complainant has submitted evidence to support that the trademark HMRC is widely known and was registered and used many years before the Respondent registered the disputed domain name. Thus, when registering the disputed domain name, the Respondent most likely knew of and has targeted the Complainant's trademark HMRC to generate confusion among the Internet users. Indeed, the Complainant has demonstrated that when searching for HMRC on Google, all the results led to the Complainant.

Panels 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. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Even more, the Respondent has ignored the cease-and-desist letter from the Complainant to try to resolve this matter amicably outside from this administrative proceeding. The Respondent has also apparently provided false contact information when registering the disputed domain name given the courier's inability to deliver the Center's written communication. These factors further underscores the Respondent's bad faith in both registering and utilizing the disputed domain name.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <hmrc-contact.top> be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: January 4, 2023