

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Kolmogorov

Kolmogorov

Case No. D2023-5210

1. The Parties

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

The Respondent is Kolmogorov Kolmogorov, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hmrc-revenue.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 December 14, 2023. On December 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 14, 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 December 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 December 19, 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 December 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 12, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on January 24, 2024. 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, officially recognized as “His Majesty's Revenue and Customs“ is commonly referred to as “HM Revenue and Customs” or simply “HMRC”.

The Complainant functions as a non-ministerial department within the government of the UK, tasked with the vital responsibilities of tax collection, distribution of certain state benefits, and the administration of various regulatory frameworks.

Throughout the history of the UK, various authorities have been responsible for raising taxes. The Complainant can trace its recent lineage through the Board of Taxes, which was established under the reign of Charles II in 1665, and the Board of Inland Revenue, created through the Inland Revenue Board Act of 1849.

The Complainant, as it exists today under its current name, came into being in April 2005 as a result of the merger between the Inland Revenue and HM Customs and Excise. This merger was formalized in The Commissioners for Revenue and Customs Act of 2005.

The Complainant is entirely responsible for managing and gathering direct taxes in the UK, which encompass Income Tax, Corporation Tax, Capital Gains Tax, and Inheritance Tax. Additionally, it oversees the collection of indirect taxes like Value Added Tax, excise duties, Stamp Duty Land Tax, as well as environmental taxes such as the climate change and aggregates levy, and landfill tax.

Furthermore, the Complainant handles the collection of National Insurance Contributions, the distribution of Child Benefit, and certain other forms of state support, including the Child Trust Fund. It is also involved in processing payments for Tax Credits and ensuring enforcement of the National Minimum Wage.

Being the tax authority of the UK Government, the Complainant serves as a direct point of contact and provider of services for nearly every individual and business in the UK.

The Complainant is the proprietor of several relevant UK trademarks such as the listed below. The Complainant notes that its earlier mark pre-dates the registration of the disputed domain name by approximately 15 years.

UK trademark registration number UK00002471470 HMRC, registered on March 28, 2008, classes 9, 16, 35, 36, 41 and 45.

UK trademark registration number UK00003251234 HM Revenue & Customs, registered on March 28, 2008, classes 9, 16, 35, 36, 41 and 45.

The disputed domain name was registered on November 1, 2023. The disputed domain name does not resolve to an active website at point of submission of the complaint. The Complainant is not aware of any other substantive use of the disputed domain name by the Respondent.

On December 6, 2023, the Complainant's representative sent a letter to the Respondent, but no response was received.

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 the Complainant owns numerous trademark registrations for HMRC and it also enjoys unregistered rights in the initialism "HMRC". The Complainant contends that it is very well-known in the UK and around the world as HMRC.

The Complainant contends that the disputed domain name is confusingly similar to its trademarks in that it only differs by the addition of the generic term "revenue".

By virtue of it being the UK's governmental tax authority, the Complainant contends that the term "revenue" is inherently associated with the Complainant and its activities. This is especially given the term "revenue" is included in the Complainant's full name "His Majesty's Revenue and Customs."

B. Respondent

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

6. Discussion and Findings

The Complainants are required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainants have 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

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 Complainants' 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.

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 disputed domain name only differs from the Complainant's HMRC trademark by the addition of the term "revenue" and a hyphen and is therefore confusingly similar to the Complainant's trademark. 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 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 disputed domain name does not resolve to an active website at point of submission of the Complaint. The Complainant contends that it constitutes passive holding and, as such, the disputed domain name has not been used in connection with a *bona fide* offering of goods or services.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Complainant’s HMRC trademarks are long-established and well-known, as outlined, the Complainant asserts that it is inconceivable that the Respondent did not have the Complainant firmly in mind when it registered the disputed domain name.

This is especially so given the inclusion of the term “revenue”, which is closely related to the Complainant’s activities and included in its full name (namely, “HM Revenue and Customs”).

The Respondent has registered the disputed domain name to make a connection with the Complainant through the disputed domain name. The disputed domain name has been chosen to deliberately incorporate the entirety of the Complainant’s trademarks.

The Panel finds that the Respondent registered the disputed domain name in bad faith.

As to the use, the disputed domain name at the point of submission the website associated with the disputed domain name is “passively held”. The Complainant asserts that such passive holding of the disputed domain name constitutes bad faith.

Panels have found that the non-use of a domain name 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.

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-revenue.top> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: February 7, 2024