

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Gorod Gorodniki Case No. D2023-5268

1. The Parties

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

The Respondent is Gorod Gorodniki, United States of America.

2. The Domain Names and Registrar

The disputed domain names <hmrc-govuk.top> and <hmrc-online.top> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 21, 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 22, 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 January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on February 6, 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 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 is the proprietor of several relevant UK trademarks, including:

- UK Trade Mark HMRC No. UK00002471470 filed on November 5, 2007 and registered on March 28, 2008;
- UK Trade Mark HM REVENUE & CUSTOMS No. UK00003251234 filed on August 18, 2017 and registered on December 29, 2017.

The disputed domain names <hmrc-govuk.top> and <hmrc-online.top> have been registered on August 30, 2023 and September 1, 2023, respectively, and both resolve to inactive webpages.

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 names.

The Complainant is the owner of an earlier trademark registration for the acronym HMRC and is commonly referred to as "HMRC" by the public.

The disputed domain names fully incorporate the acronym HMRC, together with generic terms such as "gov", "uk" and "online".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant confirms it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the HMRC trademark in any manner.

The disputed domain names were registered in bad faith, since they have not been used in connection with a bona fide offering of goods or services (they are passively held) and the disputed domain name <hmrc-online.top> was listed as "unsafe" on Google's Safe Browsing service.

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 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, but it has also established unregistered trademark or service mark rights for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.3).

The Complainant is very well known in the UK as HMRC and has produced a considerable amount of evidence for proving such circumstance.

The disputed domain names are both confusingly similar to its marks (and to its unregistered rights on HMRC), since they only differ by the addition of the terms “online”, “gov” and “UK”, which does not prevent a finding of the confusing similarity with the Complainant’s trademarks (see, in this regard, *The Commissioners for HM Revenue and Customs v. Dani Gan*, WIPO Case No. [D2017-0357](#), and *The Commissioners for HM Revenue and Customs v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Affin Affin, Affin Connect*, WIPO Case No, [D2019-1371](#), with similar cases involving the Complainant itself).

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 names. 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 names such as those enumerated in the Policy or otherwise.

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 the present case, the Panel notes that the disputed domain names appear to be passively held and this does not cure the Respondent’s bad faith given the overall circumstances here, specifically the significant renown of the Complainant’s HMRC trademark, and the choice of word appended to the Complainant’s trademark in the disputed domain names. The non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding.

As indicated in another very similar case involving the Complainant (*The Commissioners for HM Revenue and Customs v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0957](#)), also the fact that at least one of the disputed domain names have been listed as “unsafe” on Google’s Safe Browsing service makes highly probable that they have been “... used for the distribution

of malware or other malicious software – even if the Complainant was unable to put forward direct evidence that it received malware by accessing such website”.

The fact that the Respondent chose not to object to the Complainant’s assertions can only reinforce the Panel’s view that the disputed domain names are being used in bad faith.

Thus, the Panel finds that the disputed domain names have been registered and are also 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 names <hmrc-govuk.top> and <hmrc-online.top> be transferred to the Complainant.

/Tommaso La Scala/

Tommaso La Scala

Sole Panelist

Date: February 20, 2024