

## **ADMINISTRATIVE PANEL DECISION**

The Commissioners for HM Revenue and Customs v. Hmr MaiHmr Mai  
Case No. D2024-1266

### **1. The Parties**

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

The Respondent is Hmr MaiHmr Mai, Dominica.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 26, 2024, 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”) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 2024, 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 March 28, 2024.

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 April 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2024.

The Center appointed Áron László as the sole panelist in this matter on May 2, 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 usually referred to as “HM Revenue and Customs” or simply “HMRC” and was originally established in 1665. The Complainant operates as a non-ministerial department within the government of the UK and is entrusted with the essential functions of tax collection, the distribution of certain state benefits and the administration of various regulatory frameworks.

As the tax authority of the UK government, the Complainant is a direct point of contact and service provider for almost every individual and business in the UK.

The Complainant is the proprietor of several relevant UK trademarks which are listed below (the “Trademark”). Copies of extracts from the relevant databases have been attached to the complaint:

- HMRC (word) UK trademark Reg. No. 2471470, registered on March 28, 2008.

The Complainant claims that it has unregistered rights in the acronym “HMRC” because it is well known in the UK and around the world as HMRC. As evidence, the Complainant has submitted screenshots of the number of followers on various social media sites, as well as articles referring to the Complainant as HMRC.

The Complainant operates a website which can be accessed via the domain name <hmrc.gov.uk>, which belongs to the UK government.

The disputed domain name was registered on March 18, 2024, and does not resolve to any active website. The disputed domain name’s zone file is configured with MX records, which means that the disputed domain name can be used for email communication.

#### **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 disputed domain name is confusingly similar to its Trademark, differing only by the addition of the generic dictionary term “mail”. Therefore, the Complainant’s Trademark is the most prominent, dominant and distinctive element of the disputed domain name. Furthermore, the addition of the word “mail” does not exclude the possibility of confusion and the hyphen in the disputed domain name does not distinguish it from the Complainant’s trademarks. Finally, the generic Top-Level Domain (“gTLD”), in this case “.com”, is required only for technical reasons and can be disregarded.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name and seeks to establish a prima facie case to that effect. The Complainant states that the Respondent is not commonly known by the names “hmrc” or “mail hmrc”, is not a licensee of the Complainant, and has not received any permission, consent or acquiescence from the Complainant to use its name or marks. Furthermore, the Respondent does not own any trademarks containing the terms “hmrc” or “mail hmrc” or anything similar to those terms, and there is no evidence that the Respondent has ever traded or operated as “hmrc” or “mail hmrc”.

The Complainant claims that the disputed domain name does not resolve to an active website, that the Respondent cannot obtain or derive any rights or legitimate interests from its passive ownership of the disputed domain name, and that the Respondent's failure to respond to the Complainant's allegations and to provide any explanation constitutes an admission of the Complainant's allegations.

Considering that the disputed domain name carries a high risk of implied affiliation, any email originating from the disputed domain name would be highly confusing or misleading and therefore the use of the disputed domain name for email services would not give the Respondent a legitimate interest in the disputed domain name.

The Complainant alleges that it is well known in the UK and throughout the world and that its marks have been in use for many years prior to the registration of the disputed domain name. That the Respondent has not responded to the Complainant's letter and therefore has not provided any evidence of intended bona fide use. That the Respondent has redacted or allowed his details to be redacted from the public Whois records. That it is inconceivable that the Respondent could have registered the disputed domain name without the Complainant's Trademark in mind and in good faith.

The Complainant further alleges that the passive holding of the disputed domain name constitutes bad faith and that the Respondent's use of a privacy service is further evidence of bad faith registration and use of the disputed domain name.

The disputed domain name is configured with MX records and is therefore capable of email communication. The Complainant alleges that, because the disputed domain name is confusingly similar to the Complainant's marks, anyone who receives an email originating from the disputed domain name would reasonably believe that it was sent by the Complainant.

The Complainant further claims that the Respondent registered the domain name <mail-hmrc.org> on June 12, 2023. The Center ordered the transfer of the domain name to the Complainant on September 7, 2023 (*The Commissioners for HM Revenue and Customs v. MailHmr Mai, Hmr*, WIPO Case No. [D2023-2893](#)).

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- i. the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- ii. the respondent has no rights or legitimate interests in respect of the domain name; and
- iii. the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the

Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), at section 4.3.

#### **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 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 entirety of the Trademark 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, here: “mail-”, 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.

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 Panel notes that the Respondent does not have any registered trademarks or trade names and that the Complainant has not granted any license or other authorization to use its registered trademark. There is also no evidence that the Respondent has demonstrably prepared to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offer of goods or services. The Panel notes that, in the circumstances of this case, the Respondent's passive holding of the disputed domain name does not establish any rights or legitimate interests in the disputed domain name. Moreover, the full inclusion of the Complainant's well-known mark together with the term “mail” in the disputed domain name creates a risk of implied association with the Complainant (see [WIPO Overview 3.0](#), paragraph 2.5.1).

In view of the foregoing, any potential use of the disputed domain name for email services would not give the Respondent a legitimate interest in the disputed domain name.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent added the term "mail-" before the Complainant's well-known Trademark, HMRC, giving the impression that the disputed domain name is an official email address of the Complainant. The Panel considers that it is not possible that the Respondent was unaware of the Complainant's Trademark when it registered the disputed domain name. The fact that the Complainant operates a website under the domain name <hmrc.gov.uk>, which is very similar to the disputed domain name, supports the Panel's conclusion. Several UDRP panels have held that the mere registration by an unaffiliated entity of a domain name that is identical or confusingly similar to a famous or widely known mark (in particular, domain names that contain typographical errors or include the mark plus a descriptive term) may in itself create a presumption of bad faith (see [WIPO Overview 3.0](#), Section 3.1.4).

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, as well as the fact that the Respondent failed to submit a response and concealed its identity, 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's conclusions are reinforced by the fact that the Respondent recently seems to have registered a very similar domain name, <mail-hmrc.org>, which was transferred to the Complainant by the Center on September 7, 2023 (*The Commissioners for HM Revenue and Customs v. MailHmr Mai, Hmr*, WIPO Case No. [D2023-2893](#)) based on similar findings.

The fact that the disputed domain name is configured with MX records and is therefore capable of being used for email communication, in conjunction with the disputed domain name containing the "mail-" element preceding the Complainant's Trademark HMRC, also points to bad faith on the part of the Respondent, since it is reasonable to assume that anyone receiving an email originating from the disputed domain name would assume that it was sent by the Complainant.

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 <mail-hmrc.com> be transferred to the Complainant.

*/Áron László/*

**Áron László**

Sole Panelist

Date: May 10, 2024