

## **ADMINISTRATIVE PANEL DECISION**

### **The Commissioners for HM Revenue and Customs v. Miguel Betoman Case No. D2024-1969**

#### **1. The Parties**

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

The Respondent is Miguel Betoman, Philippines.

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

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

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 10, 2024. On May 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 20, 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 May 21, 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 May 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 14, 2024.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on June 25, 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 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, 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 ("PPC") advertising or the use of default parking pages, terms associated closely with the Complainant and its activities and include words such as "tax", "support", "legal" or "UK" or suggest a call to action, such as "claim", "refunds" or "demand", among others. These assertions are exhibited in the evidence offered by the Complainant as Article Bundle A.

The Complainant is the owner of the UK trademark for HMRC, no. UK00002471470, registered on March 28, 2008, for classes 9, 16, 35, 36, 41, and 45, and the UK trademark for HM REVENUE & CUSTOMS (and device) no. UK00003251234, registered on December 29, 2017, for classes 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 (138,000 followers), X (407,800 followers), and Instagram (36,200 followers), and of the number of subscribers on YouTube (72,100 followers).

The Complainant tried to resolve this dispute outside of this administrative proceeding by contacting the Respondent via the registrar of record's contact form on April 24, 2024, but did not receive a reply.

Finally, the disputed domain name was registered on March 24, 2024, and at the time of filing the Complaint, it resolved to a parking page with PPC links, which it is also associated with mail servers (MX records).

#### **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 interest in respect of the disputed domain names, 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 name.

More specifically, the Complainant alleged that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant's trademark. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant's website.

## **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.

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 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 the term "legal", 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 ".com" 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](#).

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.

Moreover, the composition of the disputed domain name, combining the Complainant's widely known HMRC trademark with the term "legal", effectively impersonates or suggests sponsorship or endorsement by the Complainant and such that it 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 Panel finds that the Respondent most likely knew of and targeted the Complainant's trademark HMRC to generate confusion among the Internet users. Indeed, the Complainant has demonstrated that when searching for HMRC on the Google search engine, all the default results on the first page led to the Complainant.

Furthermore, the disputed domain name resolved to a PPC parking page with various links. The Panel finds therefore that the Respondent's use of the disputed domain name incorporating the Complainant's recognizable and well-known HMRC trademark is intended to attract and mislead Internet users when searching for the Complainant's website, and to redirect them to third party websites from which the Respondent most probably derives commercial revenue.

Besides, the Complainant provided evidence that MX records have been set up for the disputed domain name, which enables the Respondent to send emails under the disputed domain name that would be confusingly similar to the Complainant's mark. In these circumstances, there is a significant risk that the disputed domain name could be used for fraudulent phishing emails.

The Panel also notes, the Respondent has not replied to the letter from the Complainant to try to resolve this matter amicably outside from this administrative proceeding, or otherwise engaged in this administrative proceeding.

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-legal.com> be transferred to the Complainant.

*/Gustavo Patricio Giay/*

**Gustavo Patricio Giay**

Sole Panelist

Date: July 12, 2024