

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. holysp pirit,
finomserviceltd
Case No. D2024-1970

1. The Parties

The Complainant is The Commissioners for HM Revenue and Customs, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is holysp pirit, finomserviceltd, France.

2. The Domain Name and Registrar

The disputed domain name <tax-hmrc.org> is registered with Hostinger Operations, UAB (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 May 14, 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 May 14, 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 16, 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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 13, 2024.

The Center appointed Frank Schoneveld as the sole panelist in this matter on June 19, 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 the tax, payments and customs authority of the government of the United Kingdom (“UK”) and has been known by the name HMRC (an acronym for “[Her/His] Majesty’s Revenue and Customs”) since 2005. The authority is well known as indicated by evidence of a large number of media reports and prominent results in the Google Internet search engine using the words “tax” and “HMRC”.

The Complainant owns UK trademark registration no. UK00002471470 for the trademark “HMRC” (a word mark) filed with the UK Intellectual Property Office on November 5, 2007, and registered March 28, 2008.

The Complainant has provided evidence demonstrating that it has been impersonated by scammers numerous times in the past and has been successful in enforcing its rights in numerous other prior UDRP proceedings.

The Complainant wrote to the Respondent prior to commencing these proceedings with the objective of resolving the dispute but received no response.

The disputed domain name was registered March 19, 2024. The publicly-available Whois information shows a privacy service as the Respondent’s contact information, however the Respondent’s contact information was later disclosed by the Registrar. An attempt to deliver Written Notice concerning this proceeding to the Respondent’s mailing address resulted in the courier not able to deliver the documents noting that “Further consignee information needed”.

Prior to lodging the Complaint the disputed domain name had loaded a placeholder website of the Registrar that encourages the owner of the disputed domain name to use more of the Registrar’s services. At some time thereafter this website was removed.

The disputed domain name was configured with Mail eXchanger (“MX”) records so that the disputed domain name could be used to receive emails through technical means. At some time prior to submitting the Complaint a search by the Complainant using the disputed domain name on the Internet browser “Microsoft edge” returned a notice stating “This site has been reported as unsafe. Hosted by tax-hmrc.org. Microsoft recommends you don’t continue to this site. It has been reported to Microsoft for containing phishing threats which may try to steal personal or financial information.”

The Respondent does not appear to have used the disputed domain name. The disputed domain name does not resolve to an active website (as at July 7, 2024).

The Respondent did not respond to the Complaint or otherwise engage in the proceedings.

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. The Complainant submits that:

- the use of the Complainant’s well known trademark “HMRC” in the disputed domain name means it is confusingly similar to the disputed domain name;

- the Respondent (i) has not been known by the disputed domain name, (ii) has not traded or operated under a similar or identical mark to, and (iii) is not a licensee and has not been given any permission, consent or acquiescence to use, the Complainant's trademark incorporated into the disputed domain name;
- the Respondent cannot claim any legitimate fair use since the use of the disputed domain name implies an inference of affiliation with the Complainant (when there is none) particularly when there is a high risk of implied affiliation if there were emails originating from the disputed domain name which would be misleading or highly confusing;
- the disputed domain name does not resolve to an active website so there is no use being made by the Respondent in connection with a bona fide offering of goods or services;
- because Microsoft edge received reports that the site at the disputed domain name has contained phishing threats which may try to steal personal or financial information, there was a potential security risk that the disputed domain name was attempting to deceive Internet users and such use must be abusive to or take unfair advantage of the Complainant's rights;
- it is inconceivable that the Respondent did not have the Complainant in mind when registering the disputed domain name and intended to attract Internet users by confusing them into mistakenly believing that the disputed domain name and the Respondent were affiliated with the Complainant;
- the passive holding of the disputed domain name does not prevent a finding of bad faith registration and use of the disputed domain name; and
- the potential for misleading emails using the MX system configuration indicates probable use of the disputed domain name for impersonating the Complainant and misleading Internet users.

The Complainant concludes that these considerations showed that the disputed domain name (a) was confusingly similar to the Complainant's trademarks, (b) the Respondent had no rights or legitimate interests in respect of it, and (c) it was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant contends that the disputed domain name <tax-hmrc.org> wholly incorporates the Complainant's trademark HMRC in the disputed domain name.

It is well accepted that the first element (i.e. identical or confusingly similar to the Complainant's trademark) 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's registration of its HMRC trademark since March 2008 shows 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.

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.

The Respondent’s name or other aspect of the information available regarding the Respondent does not indicate the Respondent might have a right or legitimate interests in the disputed domain name. The Respondent has not been licensed or otherwise permitted by the Complainant, nor has the Complainant consented or acquiesced in allowing the Respondent, to use the Complainant’s trademark “HMRC” as part of the disputed domain name or otherwise.

It is noted that there is no evidence of a use of the disputed domain name (or demonstrable plans for such use) with a bona fide offering of goods or services, or that the Respondent is commonly known by the disputed domain name, or that the Respondent has made any legitimate noncommercial or fair use of the disputed domain name.

Panels have held that the use of a domain name for illegal activity, in this case reports of phishing threats that may try to steal personal or financial information (which reports have not been rebutted by the Respondent despite such a serious allegation) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 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 Respondent does not respond to any of the allegations of bad faith registration and use of the disputed domain name.

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.

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.

In this case the Complainant has provided evidence of a large number of international media reports and results of prominence in Internet search engine of the Complainant's use of the "HMRC" trademark in conjunction with the word "tax", showing that the Complainant is well known. In that circumstance, it is highly unlikely that the Respondent, although purportedly not in the United Kingdom, did not know of the Complainant's name and trademark when registering the disputed domain name. 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 use of the word "tax" with the mark "HMRC" in the disputed domain name strongly indicates that the Respondent registered the name so as to mislead Internet users into believing that it had been registered and/or operated by or affiliated with the Complainant, and with no response from the Respondent it can only be concluded that the Respondent has done so to take unfair advantage of the Complainant's rights.

Panels have held that the use of a domain name for illegal activity, in this case phishing threats that may try to steal personal or financial information of Internet users, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Respondent (i) has provided a false address when giving its contact details (in breach of its Registration Agreement), and (ii) had configured the disputed domain name for MX records for email so as to use the disputed domain name probably for the purpose of impersonating the Complainant and mislead Internet users. Together with phishing, the giving of a false address and configuration of the disputed domain name for emails, strongly suggest that the Respondent sought to conceal its identity to, or to prepare to, engage in phishing for the purpose of defrauding Internet users. Further, the Respondent does not respond to or comment on the very serious allegations set out in the Complaint.

In view of the above and having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <tax-hmrc.org> be transferred to the Complainant.

/Frank Schoneveld/

Frank Schoneveld

Sole Panelist

Date: July 8, 2024