

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. Mike Smith
Case No. D2024-3035

1. The Parties

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

Respondent is Mike Smith, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <hmrcc.tax> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 25, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to Complainant on July 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 30, 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 Respondent of the Complaint, and the proceedings commenced on August 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 23, 2024.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on August 27, 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

According to the information provided Complainant, officially recognized as “His Majesty’s Revenue and Customs”, is commonly referred to as “HM Revenue and Customs” or as “HMRC”. It 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. Being the tax authority of the UK Government, Complainant serves as a direct point of contact and provider of services for nearly every individual and business in the UK.

Complainant owns the UK trademark HRMC with the registration number UK00002471470, registration date March 28, 2008. According to Complainant it also enjoys unregistered rights in the initials “HMRC”. Complainant contends that it is very well known in the UK and around the world as HMRC.

In addition, Complainant operates a website within the UK Government’s official portal at the URL “www.gov.uk/government/organisations/hm-revenue-customs”. This site can also be accessed through the domain name <hmrc.gov.uk>.

The Domain Name was registered on June 28, 2024.

The trademark registration of Complainant was issued prior to the registration of the Domain Name.

The Domain Names does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant notes that, as with other tax authorities around the globe, it and its customers are frequently targeted by phishing, online scams and other criminality.

According to Complainant, the Domain Name is confusingly similar to its HMRC mark in that it only differs by the addition of the single letter “c”. As such, Complainant avers that the Domain Name, <hmrc.c>, is a typographical variant of Complainant’s trademark HMRC. Viewed as a whole, Complainant’s mark is the most prominent, dominant and distinctive element of the Domain Name.

Complainant adds that adding an extra letter already present in a complainant’s name and/or mark is a common tactic employed by domain name squatters.

In addition, Complainant notes that the Top-Level Domain (“TLD”) is required only for technical reasons and, as in common in proceedings under the UDRP, is generally ignored for the purposes of comparison of the complainant’s mark to the disputed domain name. However, Complainant notes it is the UK’s Government’s sole tax service and, as a result, the generic Top-Level Domain (“gTLD”) “.tax” is entirely related to Complainant’s activities and does nothing to further dispel any further possibility of confusion and instead serves only to heighten the possibility of confusion.

Complainant contends that Respondent does not have any rights or legitimate interests in the Domain Name. Complainant has found no evidence that Respondent has been commonly known by the names HMRC or HMRC C (TAX) prior to or after the registration of the Domain Name. Respondent is not a licensee of

Complainant and has not received any permission, consent or acquiescence from Complainant to use its mark or name in association with the Domain Name.

In addition, Complainant contends that the Domain Name's zone file is configured with MX records, which means that the Domain Name can be used for email communication. Considering that the Domain Name, at worst, directly impersonates Complainant or, at best, carries a high risk of implied affiliation, any email originating from the Domain Name would be highly confusing or misleading to Complainant's employees, business partners, agencies or clients. Complainant therefore submits that the use of the Domain Name for email services would not give Respondent a legitimate interest in the Domain Name.

According to Complainant the Domain Name was registered and is being used in bad faith.

Given that Complainant's name and marks are long-established and well-known Complainant asserts that it is inconceivable that Respondent did not have Complainant firmly in mind when it registered the Domain Name.

Complainant notes that the Domain Name does not resolve to an active website. Complainant asserts that such passive holding of the Domain Name constitutes bad faith. Given the fame, widespread use and reputation of Complainant, Complainant contends that it is inconceivable that Respondent could have registered the Domain Name without Complainant's mark in mind and with good-faith intentions. It is more likely than not that Respondent registered the Domain Name to deceive Internet users into believing that it had been registered by or operated on behalf of Complainant and for lawful purposes.

In addition, the Domain Name is configured with MX records and is therefore capable of email communication. Complainant avers, since the Domain Name is confusingly similar to Complainant's mark, that anyone receiving an email originating from the Domain Name would reasonably assume that it was sent from Complainant.

Complainant concludes that singly or cumulatively there are reasonable grounds to conclude that the Domain Name is, on balance, likely to have been registered and used in bad faith in terms of the Policy.

B. Respondent

Respondent did not reply to Complainant's contentions

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to "decide a complaint on the basis of the statements and documents submitted and 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 proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

The entirety of the HMRC mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the addition of a second letter "c" in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD ".tax" is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name.

Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Complainant has stated it has not licensed or otherwise permitted Respondent to make any use of its HMRC trademark or to use its mark in association with the registration of the Domain Name. Based on the undisputed submission and evidence provided by Complainant, the Domain Name does not resolve to an active website; such passive use of the Domain Name clearly does not represent a bona fide offering of goods or services. Moreover, the construction of the Domain Name is inherently misleading and carries the risk of implied affiliation given the use of the ".tax" gTLD, which does not provide any indication as to how Respondent could possibly be seen as making a bona fide use of the Domain Name. Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert Internet users or to tarnish the trademark of Complainant.

The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. Respondent is also not commonly known by the Domain Name nor has it acquired any trademark or service mark rights.

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

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name has been registered and is being used in bad faith.

The trademark of Complainant has been existing for a long time and is very well-known. The Panel notes that Complainant's registration of its trademark predates the registration date of the Domain Name. Respondent knew or should have known that the Domain Name included the entirety of Complainant's HMRC trademark especially as the addition of the gTLD ".tax" used when registering the Domain Name indicates that Respondent is familiar with the field of tax in which Complainant is the exclusive provider of UK Government tax services.

The Panel notes that the Domain Name does not resolve to an active website. This does not prevent the Panel in finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

The Panel in particular notes the following. Complainant has alleged that Respondent has configured MX records for the Domain Name, suggesting an intention to use the Domain Name for illegal purposes. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark for illegal activity is considered evidence of bad faith. [WIPO Overview 3.0](#), section 3.1.4. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. Respondent has not rebutted that it may engage in this illegal practice, which is noteworthy given the configuration of MX records for the Domain Name.

Regardless, given the fame of the Complainant's trademark, the intentional misspelling and thus inherent misleading nature of the Domain Name that was also registered in the descriptive gTLD ".tax", the lack of reply from the Respondent, and the seemingly incomplete contact information provided by the Respondent for purposes of registration of the Domain Name (the courier being unable to send the Center's written communication to the "bad address" disclosed by the Registrar for the Respondent), the passive holding of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

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 Domain Name, <hmrc.tax>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: September 6, 2024