

ADMINISTRATIVE PANEL DECISION

The Commissioners for HM Revenue and Customs v. MichaelFabian
MichaelFabian, MichaelFabian
Case No. D2024-3038

1. The Parties

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

The Respondent is MichaelFabian MichaelFabian, MichaelFabian, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hmrc-authentications.com> is registered with CNOBIN Information Technology Limited (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 disputed domain name. On July 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, REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 August 2, 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 August 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 28, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on September 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 a non-ministerial department of the United Kingdom (“UK”) Government responsible for the collection of taxes, the payment of some forms of state support and the administration of other regulatory regimes. It is formally known as “Her Majesty’s Revenue and Customs”, which is often shortened to “HM Revenue and Customs” or the initialism “HMRC”. In its present form and with its current name “The Commissioners for HM Revenue and Customs”, the Complainant was established in The Commissioners for Revenue and Customs Act, 2005, and the Complainant is responsible for the administration and collection of direct taxes within the United Kingdom including income tax, corporation tax, capital gains tax and inheritance tax.

The Complainant owns at least two United Kingdom trademark registrations, namely, United Kingdom trademark No. UK00002471470 HMRC (word) filed on November 5, 2007, registered on March 28, 2008, for goods and services in Classes 9, 16, 35, 36, 41, and 45; United Kingdom trademark No. UK00003251234 HM REVENUE & CUSTOMS (fig.) filed on August 18, 2017, registered on December 29, 2017, for goods and services in Classes 9, 16, 35, 36, 41, and 45.

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

The disputed domain name <hmrc-authentications.com> was registered on June 4, 2024. The disputed domain name is not used for an active website, but there are mx-records connected to it.

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 mark HMRC.

The Complainant’s mark is the most prominent, dominant, and distinctive element of the disputed domain name in that it only differs by the inclusion of the generic dictionary word “authentications”. The Complainant allows users to log on to its online services via multi-factor authentication, so the adornment “authentications” is therefore one that is inherently associated with the Complainant and its activities.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not a licensee of the Complainant and has not received any permission, consent, or acquiescence from the Complainant to use its marks or name in association with the registration of the disputed domain name or, indeed, any domain name, service, or product.

In addition, the Complainant has thus found no evidence that the Respondent has been commonly known by the names HMRC or HMRC AUTHENTICATIONS prior to or after the registration of the disputed domain name and has found nothing to suggest that the Respondent owns any trademarks that incorporate or are similar or identical to the terms HMRC or HMRC AUTHENTICATIONS. Equally, the Complainant has found no evidence that the Respondent has ever traded or operated as HMRC or HMRC AUTHENTICATIONS.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. Given that the Complainant's name and marks are long-established and well-known, the Complainant asserts that it is inconceivable that the Respondent did not have the Complainant firmly in mind when it registered the disputed domain name. The Complainant furthermore contends that it is likely that the disputed domain name has been used for malicious purposes, since the disputed domain name is being listed as "unsafe" by both Microsoft and Google. In any event, the Complainant notes that at the point of submission, the website associated with the disputed domain name is now passively held, but the Complainant asserts that such passive holding of the disputed domain name constitutes bad faith under the UDRP.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that 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) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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 Panel finds the mark is recognizable 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, "authentications", 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 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.

The disputed domain name does not seem to be used for an active website at present. 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. [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, 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.

Additionally, the Complainant has filed evidence that the disputed domain name has been reported by reputable third parties, namely Microsoft and Google, as being used for potentially criminal purposes. When accessed through the Edge browser, Microsoft thus reports the website associated with the disputed domain name as unsafe, and Google’s Transparency Report for the disputed domain name detects that some of the pages associated with the disputed domain name have been used to trick visitors into sharing personal information or downloading software.

Based on the information that has been presented to the Panel by the Complainant and the fact that the Respondent has not filed a Response in which this information has been rebutted, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel therefore 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-authentications.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: September 20, 2024