

**.ie Alternative Dispute Resolution  
NETNEUTRALS DISPUTE RESOLUTION SERVICE**

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**Decision of Independent Specialist**

**Case Number: 757**

**1. The Parties:**

<b>Complainant:</b>	Ken Barclay on behalf of Department of Public Expenditure and Reform
<b>Respondent:</b>	Tool Domains OOD

**2. The Domain Name(s):**

mygov.ie	("the Domain Name")
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**3. Procedural History:**

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future that need be disclosed as they might be of such a nature as to call in to question my independence in the eyes of one or both of the parties.

The procedural history is as follows:

Action	Comment / date
Dispute received	20 <sup>th</sup> December 2024
Complaint validated	20 <sup>th</sup> December 2024
Notification of complaint sent to Complainant	27 <sup>th</sup> December 2024
Notification of complaint sent to Respondent	27 <sup>th</sup> December 2024
Phone calls to respondent	
Letter sent to respondent	
Forum Opened	27 <sup>th</sup> December 2024
Complaint Form received	16 <sup>th</sup> January 2025
Response received	
Forum Closed	28 <sup>th</sup> February 2025
Adjudication Started	3 <sup>rd</sup> March 2026
Adjudication Decision Posted	10 <sup>th</sup> March 2025
Specialist Decision published	10 <sup>th</sup> March 2025

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#### 4. Factual Background

The Complainant is the Irish Government Department of Public Expenditure, National Development Plan Delivery and Reform (the Department), represented by its office, the Office of the Government Chief Information Officer (OGCIO), which is mandated with responsibility for the registration and maintenance of all Irish Government websites, including the gov.ie and the mygov.ie websites, registered by the Complainant in 2000 and 2015 respectively.

The Registrant/Respondent is a Bulgarian limited liability company.

The Domain Name mygov.ie was registered in the name of the Registrant/Respondent on 2 September 2024.

#### 5. Parties' Contentions

##### Complaint

A summary of the Complaint is as follows:

The Complainant contends that:

- The Complainant would ordinarily be eligible to register the domain name in question if it was not already registered by the Registrant.
- The Complainant has rights in the domain 'mygov.ie' and identifiers which are very similar to the name, ie. 'gov.ie' and 'mygovid.ie'.
- The Complainant's rights have been negatively impacted by the registration and use of the domain name, which amounts to passing-off and which further misleads the Irish public and which has the potential to erode public trust in Government information and services.
- The Registrant/Respondent has no legitimate interest in the Domain name, and is using it in bad faith, specifically:
  - The Registrant has no connection with the island of Ireland;
  - The domain is parked with only a holding website offering advertising links to information and services related to the keyword of the Domain;
  - The Registrant is known to engage in 'drop catching', i.e. the practice of registering a domain once registration has expired, with a view to selling it back to the original registrants or others at a profit, and refers in its own advertising to having an portfolio of 'expired domains', and has been the unsuccessful respondent in a number of specialist decisions before .ieADR panels, including –

Decision 23 June 2021: Oldside Enterprises Ltd. v Tool Domains OOD;

Decision 3 September 2021: Jamie Murphy v Tool Domains OOD;

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Decision 17 October 2022: Fujifilm Corporation EUTM 000232868 v  
Tool Domains OOD;

Decision 25 May 2023: Limelight Public Relations Limited v Tool  
Domains OOD;

- ‘Gov’ domains, the Complainant contends, are synonymous with governments and gov.ie domains are synonymous with the Irish government, so the Domain had to be registered for the purpose of selling, renting or otherwise transferring the Domain to the Complainant and/or another Irish Government Department (based on existing rights in the Irish Government Domains and a legitimate interest in the name mygov.ie), for a price greater than the costs directly related to the Domain;
- The Domain appears, the Complainant contends, to have been registered for the purpose of interfering with or disrupting the activities and services of the Complainant; including advertising of information and services which are confusingly similar to the information and services which are in fact offered by the Complainant;
- The Registrant’s activity on the Domain, the Complainant contends, is likely to amount to commercial practices which are unfair and/or misleading and/or prohibited, including as prescribed within sections 41, 43 and 55 respectively of the Irish Consumer Protection Act 2007 (as amended);
- The Domain is being intentionally used to attract for commercial gain (presumably through advertising revenue) Irish internet users, by creating a likelihood of confusion with the ‘gov.ie’ name;
- The Registrant has not engaged with or responded to the Complainant in any form despite manifold efforts by the Complainant to communicate with it;
- The Complainant further contends that the registration and maintenance by the Registrant of the Domain amounts to a breach of .ie Registry policies, giving rise to a right on behalf of the .ie Registry to terminate the Registrant’s registration of the Domain. Specifically:
  - Rule 3.1 requiring registrations to have a connection to the Island of Ireland;
  - Rule 3.1.2.1(v) which states that “the domain name must not infringe on any third party’s rights, or be registered or used in bad faith”.
  - The Registrant Terms and Conditions, including but not limited to:
    - Section 8(a), whereby the Registrant “represent and warrants” that registering and using the domain “will not infringe or otherwise violate the rights of a third party” (Section 8(a)(2)), and
    - “the Registrant is entitled to register the Domain Name...” (Section 8(a)(7)), and
    - “the Domain Name is not used or will not be used abusively” (Section 8(a)(8)).

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**Response**

A summary of the Response is as follows:

The Respondent acknowledged these proceedings but made no response to the Complainant's contentions.

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## 6. Discussions and Findings

The burden of proving a complaint under the ADRP is on the Complainant.

Matters to be proved:

### Complaint Submission

The Complainant has proved in accordance with .ie ADR Policy that...

	<ul style="list-style-type: none"><li>the Complainant would ordinarily be eligible to register the domain name in question if it was not already registered by the Registrant. This means that the complainant must prove its identity and it must prove that it has a substantive connection with the island of Ireland. If the complainant has other .ie domains registered in their own name this requirement is satisfied automatically; and</li></ul>
	<ul style="list-style-type: none"><li>the Complainant has rights in the domain name or in marks or identifiers very similar to it, or that the Complainant's rights have been negatively impacted by the registration, and</li></ul>
	<ul style="list-style-type: none"><li>the registration of the domain should be revoked as it has been registered or used abusively or in bad faith.</li></ul>

### General

	<ul style="list-style-type: none"><li>the Complainant would ordinarily be eligible to register the domain name in question if it was not already registered by the Registrant, and</li><li>the Complainant has rights in the domain name or in marks or identifiers very similar to it, or that the Complainant's rights have been negatively impacted by the registration, and</li><li>the registration of the domain should be revoked as it has been registered or used abusively or in bad faith.</li></ul>
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### Complainant's Rights

The meaning of "Rights" is defined in the .ie ADR Policy as follows:

	<ul style="list-style-type: none"><li>the Complainant has rights in the domain name, or in marks or identifiers very similar to it (sufficiently close to the domain that there would be a strong likelihood of confusion), or that the Complainant's rights have been negatively impacted by the registration. Any legal right or entitlement can be considered, including but not limited to:</li></ul>
	<ul style="list-style-type: none"><li>Trade and service marks protected in the island of Ireland, or</li></ul>
	<ul style="list-style-type: none"><li>Personal names (including pseudonyms) by which the Complainant is commonly known or has acquired a reputation in on the island of Ireland, or</li></ul>
	<ul style="list-style-type: none"><li>Geographical indications that can prima facie be protected in the island of Ireland,</li></ul>
	<ul style="list-style-type: none"><li>Unregistered rights acquired through use; and the registration of the domain should be revoked as it has been registered or used abusively or in bad faith.</li></ul>

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***Complainant Rights Negatively Impacted***

The Complainant rights are negatively impacted by the domain registration or use as shown by:

	<ul style="list-style-type: none"><li>• The domain name registration or use is misleading or confusing to its customers, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name registration or use is commercially damaging to its business through activities such as passing-off, content scraping or impersonation, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is being used to circulate defamatory material relating to the Complainant, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is being used for the purpose of making unauthorised use of material in which the Complainant has a copyright or another protected interest</li></ul>

***Domain Used or Registered Abusively or in Bad Faith***

.ie ADR Policy defines “Abusively Registered” as:

***Abusively registered*** refers to a Domain Name which was registered or used to take unfair advantage of or was unfairly detrimental to the Complainant's Rights;

The domain has been registered or is being used Abusively or in Bad Faith by the Registrant as evidenced by:

	<ul style="list-style-type: none"><li>• The domain name was registered or is being used with the primary purpose of selling or renting it specifically to the Complainant (or a competitor) for more than the Registrant paid for it, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name was registered or is being used with the primary purpose of preventing the Complainant registering a name or mark in which the Complainant has rights, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name was registered or is being used with the primary purpose of unfairly disrupting or interfering with the Complainant’s business, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is being used in a way that is likely to confuse people or businesses into believing that it is registered to, operated or authorised by, or otherwise connected with the Complainant, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name was registered or is being used for an unlawful purpose (e.g. it is engaging in suspected fraudulent activity, engaging in other criminal/illegal online activity), or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is registered to a company which currently has a dissolved company trading status, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is being used to facilitate the circulation of defamatory or racist material, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is registered to a Registrant which does not have (and never had) a connection to the island of Ireland, or</li></ul>

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	<ul style="list-style-type: none"><li>• The domain name was registered as a result of a relationship between the Complainant and the Registrant, and the Complainant<ul style="list-style-type: none"><li>a) has been using the Domain Name registration exclusively; and</li><li>b) paid for the registration and/or renewal of the Domain Name registration; or</li></ul></li></ul>
	<ul style="list-style-type: none"><li>• Failure by the Registrant to use the Domain Name for the purposes of email or a web site, the Registrant offering a domain name for sale, or use of domain parking services that may include advertising related to the keyword content of the domain name are not of themselves evidence of abuse or bad faith, however the Specialist may consider these issues in combination with other factors when deciding a case.</li></ul>

**The Complainant has established:**

**Eligibility to Register**

As Registrant of the gov.ie and mygovid.ie domains, the Complainant has automatically established that it would ordinarily be eligible to register the Domain name in question if it was not already registered by the Registrant/Respondent.

**Rights in the Domain**

Under paragraph 1 of the .ie Alternative Dispute Resolution Policy (“.ie ADR Policy”), “rights” includes “trade and service marks protected in the island of Ireland”.

It is well established that this extends to unregistered or common law trade mark rights, and in this regard it is helpful to refer for guidance to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), as other panels have done, except to the extent that the .ie ADR Policy diverges from the UDRP (See, e.g. Case 598 *Screenguard Ireland Ltd v The Other Side Ltd / Screenguard.ie*).

Section 1.3 of WIPO Overview 3.0 explains that to establish unregistered or common law trade mark rights, a complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant’s goods and/or services. Relevant evidence demonstrating such acquired distinctiveness includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.

In the instant case, the Complainant has provided evidence that, since 2000, it has extensively used, and become widely associated in the Republic of Ireland with, the distinctive domain “gov.ie” in connection with its regulatory functions and related services, and since 2015 with the domain “mygovid.ie” providing a single account for access to Irish public use online services from many Irish Government Departments and bodies, including the Irish Revenue Commissioners, MyWelfare.ie, and JobsIreland.ie. While the Complainant has not supplied evidence of the nature and extent of advertising using the domains, or the degree of actual public use and recognition of the domains, I am satisfied that the gov.ie and mygovid.ie domains have high recognition among the Irish public.

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In the circumstances, I have little difficulty in concluding that the names “gov.ie” and “mygovid.ie” have become distinctive identifiers associated with the Complainant’s functions and services and that the Complainant has rights which are protected by the .ie ADR Policy.

**Similarity**

The disputed Domain name in this case is misleadingly similar to these marks or identifiers. The entire of the protected identifier “gov.ie” is recognisable and contained in the Domain name. Moreover, the Domain name is wholly contained in the protected identifier “mygovid.ie”.

Again, the WIPO Overview 3.0 can be referred to here for guidance – paragraph 1.9(vi) thereof provides that the “addition or interspersation of other terms or numbers” is to be considered to be confusingly similar to the relevant mark where the domain name contains sufficiently recognisable elements of the relevant mark (see also e.g. *Commission for Communications Regulation v. Metodi Darzev, Tool Domain OOD*, Case DIE 2020-004 - AskComreg.ie; *Nexben, Inc. v Xingte Li*, Case D2024-1948 – MyNexben.com).

The Complainant has therefore established that it has rights in the domain name or in marks or in marks or identifiers very similar to it, sufficiently close to the domain that there would be a strong likelihood of confusion.

**Negative Impact**

The Complainant contends that the registration and/or use of the Domain by the Registrant/Respondent has had a negative impact on the Complainant’s rights, including the creation of confusion in the minds of the public, passing off, and use for illegal, unfair or prohibited practices. I am satisfied that the Domain name is confusing to the Complainant’s ‘customers’, being so similar to the Complainant’s other domain names, and I note that the confusion is compounded by the advertising of services connected with the functions and services of the Complainant. I find accordingly that the negative impact criterion has been established by the Complainant. I do not therefore consider it necessary to decide further whether there has been passing off, or illegal, unfair or prohibited use.

**Abuse and/or Bad Faith**

In determining whether the domain name was registered or is used abusively or in bad faith I note that the Complainant’s rights in its gov.ie domain name have been exercised extensively since 2000 and in its mygovid.ie domain since 2015. I conclude that at the time of registration of the Domain the Registrant/Respondent could not have been unaware of the Complainant’s rights in the names.

I further note that the Registrant/Respondent appears to have no established rights in the Domain name other than through registering it; if any such exist, the Registrant/Respondent has not taken the opportunity to have them brought into consideration in this decision.

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I also note that use of domain parking services that may include advertising related to the keyword content of the domain name is not of itself evidence of abuse or bad faith; however, taking into account the high profile of the Complainant's rights in the name at the time of registration, the Registrant/Respondent's apparent lack of rights or legitimate interests in the name at the time of registration, and the thinly-veiled holding nature of Registrant/Respondent's use of the domain, I conclude that the domain name was registered or is being used with the primary purpose of selling or renting it specifically to the Complainant (or a competitor) for more than the Registrant/Respondent paid for it.

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**Domain Holder Response**

**Showing that a Registration is not Abusive or in Bad Faith**

The Registrant may provide information to counter any statements within the complaint and can submit its own evidence to show that its registration and/or use of the domain is not unreasonable, including but not limited to demonstrating any of the factors below:

	<ul style="list-style-type: none"><li>• The Registrant has established rights in the domain name, or in marks or identifiers very similar to the domain name including but not limited to:</li></ul>
	<ul style="list-style-type: none"><li><ul style="list-style-type: none"><li>○ Trade and service marks protected in the island of Ireland, or</li></ul></li></ul>
	<ul style="list-style-type: none"><li><ul style="list-style-type: none"><li>○ Personal names (including pseudonyms) by which the Complainant is commonly known or has acquired a reputation in on the island of Ireland, or</li></ul></li></ul>
	<ul style="list-style-type: none"><li><ul style="list-style-type: none"><li>○ Unregistered rights acquired through use.</li></ul></li></ul>
	<ul style="list-style-type: none"><li>• Prior to any notice of the dispute, the Registrant used the domain name or a name reasonably corresponding to the Domain Name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use, or</li></ul>
	<ul style="list-style-type: none"><li>• The Registrant (as an individual, business, or other organization) has been commonly known by the domain name or similar name, even in the absence of a registered trademark, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is generic or descriptive and the Registrant is making fair use of it, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name is being used solely for tribute or criticism, or</li></ul>
	<ul style="list-style-type: none"><li>• The domain name contains or references the Complainant's mark but the Registrant is making fair use of it.</li></ul>

**The Registrant has established:**

The Registrant/Respondent acknowledged these proceedings but did not respond to the Complainant's contentions.

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**I therefore readily conclude:**

I conclude that the Complainant has rights in the domain name which have been negatively impacted by the registration and use of the domain by the Registrant/Respondent and that the domain was registered and is being used abusively and in bad faith.

**7. Decision**

The Domain Name shall be Transferred to the Complainant.

**Signed: G Brian Hutchinson**

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**Dated: 9 March 2025**

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