

ADMINISTRATIVE PANEL DECISION

Rightmove Group Limited v. Tracy Huffman

Case No. D2023-4468

1. The Parties

The Complainant is Rightmove Group Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom (“UK”).

The Respondent is Tracy Huffman, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <yourightmove.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 October 27, 2023. On October 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 30, 2023, 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 October 31, 2023 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 October 31, 2023.

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 November 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 24, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on November 29, 2023. 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 company active in the real estate sector in the United Kingdom. The Complainant particularly operates the United Kingdom's largest real estate portal and property search function under the RIGHTMOVE name. The Complainant was founded in 2000 as a joint venture by four prominent corporate agencies: Countrywide, Connells, Halifax and Sun Alliance. The Complainant's customers include real estate agents, letting agents and new home developers. The Complainant's online platform is ranked within the top 50 most popular digital services in the United Kingdom and regularly attains around 100 million visits per month. The Complainant's market share in respect to the top four property portals is around 76%, making it a market leader in its provision of services.

The Complainant provides evidence that it owns an international trademark portfolio for RIGHTMOVE, including but not limited to the United Kingdom trademark registration No. UK00002432055 registered on July 27, 2007, and European Union trademark registration No. 015568561 registered on April 13, 2017. The Complainant also has a strong online presence and also owns a portfolio of official domain names incorporating its RIGHTMOVE mark.

The disputed domain name was registered on July 29, 2023, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name directs to an active landing website which offers website engineering services for real-estate investing businesses, and previously directed to a website containing what are purported to be pay-per-click links to third party real estate service websites.

The Complainant also provides evidence that it attempted to settle this matter amicably by sending a cease-and-desist letter to the Respondent on August 4, 2023. However, the Complainant did not receive any response to this letter from the Respondent.

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 the disputed domain name is confusingly similar to its trademark for RIGHTMOVE, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith to divert Internet users to the Respondent's website which competes with its website.

The Complainant argues that its trademark RIGHTMOVE is well-known, intensely used and famous, and refers to a large number of prior UDRP panel decisions which have recognized its rights in the RIGHTMOVE trademarks and their strong reputation and fame, such as *Rightmove Group Limited v. Name Redacted*, WIPO Case No. [D2023-2710](#) and *Rightmove Group Limited v. Maxim Weisstein*, WIPO Case No. [D2023-2792](#). The Complainant essentially contends that the disputed domain name is confusingly similar to the Complainant's intensively used trademarks, as it incorporates the Complainant's RIGHTMOVE trademark, with the addition of the word "you" to the disputed domain name. The Complainant also provides evidence that the disputed domain name directs to an active landing website which offers website engineering for real-estate investing businesses, and previously directed to a website containing what are purported to be pay-per-click links to third party real estate service websites. The Complainant argues that such use confers no legitimate interest in the disputed domain name on the Respondent. The Complainant

also argues that the Respondent had or can be expected to have had prior notice of the Complainant's trademarks at the time the disputed domain name was registered, and that the selection of the disputed domain name was therefore intentional and designed to divert Internet traffic from Complainant's site to Respondent's website. Finally, the Complainant also provides evidence that the Respondent connected the disputed domain name to MX servers, which creates a grave risk of fraud. The Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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.

Based on the available record, the Panel finds 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 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 here, "you", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Based on the available record, 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.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name directs to an active landing website which offers website engineering services for real-estate investing businesses, and previously directed to a website containing what are purported to be pay-per-click links to third party real estate service websites. The Panel also notes that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. In the Panel's view, these elements show that the Respondent's intention was not to make any use of the disputed domain name as a *bona fide* provider of goods or services, or to make legitimate noncommercial use or fair use of the disputed domain name. Instead, it shows the Respondent's clear intention to mislead and divert Internet users for commercial gain to this parking webpage offering first pay-per-click links and subsequently offering services to Internet users which compete with the Complainant's services, by taking unfair advantage of the goodwill and reputation of the Complainant's trademarks for RIGHTMOVE.

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 the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant's well-known, intensely used and distinctive trademarks (see in this regard also previous decisions under the Policy such as *Rightmove Group Limited v. Name Redacted*, WIPO Case No. [D2023-2710](#)). The Panel deduces from this fact that by registering the disputed domain name, the Respondent deliberately and consciously targeted the Complainant's prior trademarks for RIGHTMOVE. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." The Panel also notes that the Complainant's trademarks in this case predate the registration date of the disputed domain name by several years, and that the Respondent could not have been reasonably unaware of them. The Panel considers that the Respondent has intentionally and opportunistically targeted the Complainant's trademark for RIGHTMOVE. The Panel deduces from these efforts to consciously target the Complainant's prior registered trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2. The Panel also notes that even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for RIGHTMOVE. In the Panel's view, these elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed 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.

Particularly, the Complainant provides evidence that the disputed domain name directs to an active landing website which offers website engineering services for real-estate investing businesses, and previously directed to a website containing what are purported to be pay-per-click links to third party real estate service websites. The Panel finds that this means that the Respondent attempts to direct unsuspecting Internet users to its commercial website which offers services in direct competition with the trademark owner, which

clearly constitutes use in bad faith of the disputed domain name (see in this regard also prior UDRP decisions such as *Guardant, Inc. v. Jeff Park*, WIPO Case No. [D2009-0631](#) and *Fenix International Limited v. IVAN KOBETS, MINERAL*, WIPO Case No. [D2023-0690](#)). The Panel concludes that such use constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, affiliation, or endorsement of the disputed domain name. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

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 <yourightmove.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: December 13, 2023