

ADMINISTRATIVE PANEL DECISION

Rightmove Group Limited v. Ryan Buzz

Case No. D2023-0322

1. The Parties

The Complainant is Rightmove Group Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondent is Ryan Buzz, United States of America.

2. The Domain Name and Registrar

The disputed domain name <rightmove.work> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 27, 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 January 27, 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 February 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2023.

The Center appointed John Swinson as the sole panelist in this matter on March 17, 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, who was founded in 2000, operates a real estate portal in the United Kingdom allowing users to search for properties that are for sale and for rent. The Complainant's website is popular. According to the Complainant, its website receives over 60 million visits per month making it the 22nd most visited website in the United Kingdom. The Complainant's website is located at <rightmove.co.uk>.¹

The Complainant owns United Kingdom Trademark Registration No. UK00002432055 for RIGHTMOVE with a registration date of July 27, 2007.

The Respondent did not file a Response, so little information is known of the Respondent. According to the Registrar's records, the Respondent has an address in California, United States of America.

The disputed domain name was registered on May 20, 2021.

At the date of this decision, the disputed domain name does not resolve to an active website and there is no evidence that the disputed domain name has ever resolved to an active website. The Mail Exchange ("MX") records for the disputed domain name have been activated.

The Complainant sent a cease and desist letter to the Respondent on September 1, 2022, but no response was received.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant is well known. The disputed domain name is identical to the Complainant's RIGHTMOVE registered trademark. The Complainant's RIGHTMOVE trademark has no ordinary or dictionary meaning. The Complainant's United Kingdom website advertises properties for sale or rent outside of the United Kingdom.

To the Complainant's knowledge, the Respondent does not have any trademark rights to "rightmove". The Complainant has not licensed the Respondent to use a domain name featuring the RIGHTMOVE trademark. The Respondent is not commonly known as RIGHTMOVE. The Respondent has not used, nor prepared to use, the disputed domain name in a *bona fide* way. The disputed domain name does not resolve to an active website. The presence of active MX records indicates a desire to accept and send emails using the disputed domain name, which suggests that the Respondent has or at some point in the future will engage in phishing activity.

The mere registration of a domain name that is identical to a famous or widely known trademark can by itself create a presumption of bad faith. The Respondent registered the disputed domain name to take advantage of the Complainant's widely known brand. The Complainant relies on *Nuclear Marshmallows* case (cited in the decision below) to demonstrate bad faith use despite the passive holding of the disputed domain name. The Respondent was given the opportunity to give evidence of actually or contemplated good faith use when the Complainant wrote to the Respondent, but the Respondent chose not to. The activation of the MX records also suggests actual or contemplated phishing activities.

¹ The Panel also notes that the domain name <rightmove.com> redirects to the Complainant's website is located at <rightmove.co.uk>.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

As set out in Section 4 above, the Complainant has a registered trademark for RIGHTMOVE.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, disregarding the Top-Level Domain ("TLD") part of the domain name. Thus, the Panel may disregard the TLD ".work" in this assessment. *SOLVAY Société Anonyme v. Evelyn Shaw*, WIPO Case No. [D2022-3304](#).

Here, the disputed domain name includes the RIGHTMOVE registered trademark in its entirety.

The Complainant succeeds on the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant's allegations to support the Respondent's lack of rights or legitimate interests in the disputed domain name are set out in Section 5A above.

There is no evidence that the Respondent is commonly known by the disputed domain name. There is no evidence that the Respondent has used the disputed domain name for a *bona fide* purpose. The disputed domain name was registered many years after the Complainant established its trademark rights in RIGHTMOVE.

Having regard to all these matters, the Panel finds that the *prima facie* case established by the Complainant has not been rebutted by the Respondent and the Complainant succeeds on the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The Complainant's RIGHTMOVE trademark (as combined) has no ordinary or dictionary meaning.

The disputed domain name is identical to the Complainant's trademark which is well known in the United Kingdom. A Google search of "rightmove" from Australia returns the Complainant's website as the first search result, and the first 10 search results all related to the Complainant, its social media, its apps or articles quoting the Complainant. The Respondent did not file a Response or reply to the Complainant's correspondence, so we do not know why the Respondent registered the disputed domain name or whether the Respondent was unaware of the Complainant or the RIGHTMOVE trademark when he registered the disputed domain name. The Panel can draw the inference from the lack of response by the Respondent that the Respondent was aware of the Complainant and that the Respondent's decision to register the disputed domain name is most likely motivated by an awareness of the Complainant and the Complainant's trademark.

The RIGHTMOVE trademark is sufficiently distinctive and well known such that, noting that the disputed domain name is identical to the RIGHTMOVE trademark apart from gTLD, without further information from the Complainant it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. Compare *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). See also *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) ("[The disputed domain name] is so obviously connected with such a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith.")

The Complainant asserts that the Respondent was in fact targeting the Complainant, and that the disputed domain name was registered to confuse people who are looking for employment with the Complainant, and thus search for "rightmove work" on a search engine. This plausible explanation was not rebutted by the Respondent.

Although the disputed domain name does not resolve to an active website, the MX records for the disputed domain name have been activated. The Complainant suggests that the disputed domain name has or could in the future be used for fraudulent phishing activities. That the Respondent does not respond to this allegation gives further credence to the Complainant's submission in this regard. Compare *bioMérieux v. Registration Private, Domains By Proxy, LLC / Milton Bardmess*, WIPO Case No. [D2020-3499](#); *PrideStaff, Inc. v. Perfect Privacy, LLC / Marcheta Bowlin, Midwest Merchant Services*, WIPO Case No. [D2021-3165](#).

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The Complainant succeeds on 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 <rightmove.work> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: March 31, 2023