

## ADMINISTRATIVE PANEL DECISION

### Rightmove Group Limited v. Name Redacted Case No. D2023-2710

#### 1. The Parties

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

The Respondent is Name Redacted<sup>1</sup>.

#### 2. The Domain Name and Registrar

The disputed domain name <rightmovespain.com> is registered with Key-Systems GmbH (the “Registrar”).

#### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 June 28, 2023.

The Center verified that the Complaint 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”).

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<sup>1</sup> The Respondent appears to have used a fake name, which associates with a celebrity. In light of the potential reputation claim, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 12, 2023. In accordance with the Rules, paragraph 5, the due date for the Response was August 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on August 14, 2023.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on August 21, 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 operates the United Kingdom's largest real estate and property search online portal under the RIGHTMOVE mark. The Complainant was founded in 2000 as a joint venture by four real estate agencies and is listed on the London Stock Exchange. The Complainant's service hosts listings for property for sale in the United Kingdom and abroad, including in Spain. It operates its primary business website at the domain name <rightmove.co.uk>.

The Complainant is the proprietor of, among others, the following registrations for its RIGHTMOVE mark:

- United Kingdom Trademark No. UK00002432055 for RIGHTMOVE (word mark), registered on July 27, 2007 for goods and services in classes 9, 35, 36, 38 and 42;
- European Union Trade Mark No. 015568561 for RIGHTMOVE (device mark), registered on April 13, 2017 for goods and services in classes 9, 35, 36, 38, 42 and 45.

The disputed domain name was registered by the Respondent on November 6, 2022. At the time of this Decision, it resolved to a Chinese-language search engine site. The record reflects that it previously resolved to a website inviting Internet users to enter a username and password and displaying pictures of famous footballers, and at one time did not resolve to any website.

The Complainant sent the Respondent a cease-and-desist letter on November 18, 2022.

No information is available about 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 that its RIGHTMOVE mark has been extensively promoted to the general public and its website is the 12th most visited website in the United Kingdom. The Respondent has no authorization from the Complainant to use the RIGHTMOVE mark, which enjoys an extensive reputation. The disputed domain name previously resolved to a website that requested the input of username and password details, and now resolves to a search engine website operated by the Chinese company Sougou. Neither use is related to the Complainant. The Complainant's rights in its RIGHTMOVE mark predate the registration of the disputed domain name by 15 years. A party using the Respondent's email address has registered several other domain names that infringe upon well-known third-party marks, demonstrating a pattern of bad-faith conduct. Finally, it appears that the Respondent has provided false contact details and has used an alias.

## B. Respondent

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

## 6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall 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”.

### 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/are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, “spain,”) may bear on assessment of the second and third elements, the Panel finds the addition of such a 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.

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.

While 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 often impossible 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. 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 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.

In particular, the Panel notes that the various uses of the disputed domain name indicate that the Respondent has used the Complainant's RIGHTMOVE mark to attract Internet users to websites unrelated to the RIGHTMOVE mark, which is a commercial activity not compatible with a finding of fair use. The Panel further notes that the terms "right" and "move" are dictionary terms, "Spain" being a geographical term. However, the Panel also notes that the Complainant is doing business in Spain, and the Panel finds that the combination of the terms "right move Spain" is not an obvious selection in connection with a website displaying phrases in Chinese along with images of famous footballers, nor for a search engine site in Chinese-language.

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 Complainant provided evidence that the Respondent has engaged in a pattern of bad faith conduct by registering several domain names reflecting well-known third-party marks, and the Respondent's use of the disputed domain name indicates that the Respondent has intentionally attempted to attract Internet users by taking an unfair advantage due to the similarity with the Complainant's mark.

The Complainant has provided evidence to support its assertion that the RIGHTMOVE mark enjoys consumer awareness in the United Kingdom and in markets where British buyers may be interested in real estate, including Spain.

The Respondent has provided no evidence of any good-faith use of the disputed domain name, and, under the circumstances, the Panel does not find any such use plausible.

Based on the available record, and on the balance of probabilities, the Panel finds the third element of the Policy has been established.

### **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 <rightmovespain.com> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: September 4, 2023