

ADMINISTRATIVE PANEL DECISION

Rightmove Group Limited v. Wu Yu

Case No. D2022-4521

1. The Parties

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

The Respondent is Wu Yu, China.

2. The Domain Name and Registrar

The disputed domain name <rightmovehousesfor.sale> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2022. On November 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 29, 2022, 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 November 29, 2022 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 December 2, 2022.

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 December 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 29, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on January 12, 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 was founded in 2000 as a joint venture by four prominent corporate agencies: Countrywide, Connells, Halifax, and Sun Alliance to operate a real estate portal and property search function, under the RIGHTMOVE brand, targeting the United Kingdom market.

The Complainant, in addition to the domain name such <rightmove.co.uk>, is the owner of the following trademark registrations (Annex 9 to the Amended Complaint):

- United Kingdom trade mark registration No. UK00002432055 for the word mark RIGHTMOVE, registered on July 27, 2007, subsequently renewed, in international classes 09, 35, 36, 38, and 42; and
- European Union trade mark registration No. 015568561 for the word and device mark RIGHTMOVE, registered on April 13, 2017, in international classes 09, 35, 36, 38, 42, and 45.

The disputed domain name was registered on April 18, 2022, and presently resolves to a parked webpage displaying pay-per-click (“PPC”) links to Complainant’s competitors.

5. Parties’ Contentions

A. Complainant

The Complainant asserts to operate the United Kingdom’s largest real estate portal and property search function, under the RIGHTMOVE trademark. According to the Complainant, its RIGHTMOVE portal is available at <rightmove.co.uk> and enables users to search for residential property, commercial property, new homes, rentals, and overseas property.

The Complainant further asserts that according to YouGov, its website regularly attains 99.9 million visits per month, the majority of which come from the United Kingdom, being it the 14th most visited website within the United Kingdom, and making the Complainant the leader in its services with 76per cent of that market’s share. Also according to the Complainant, more than 80 per cent of all estate agents, letting agents and new home developers across the United Kingdom have signed up as members of its portal which counts with 900,000 residential properties advertised.

The Complainant claims to also be renowned for its “House Price Index”, the largest monthly sample of asking prices for residential property and a leading indicator of changes in house pricing and the property market as a whole, available at its RIGHTMOVE portal. In addition to that, the Complainant asserts that the RIGHTMOVE trademark is featured on numerous reputable third-party news websites, such as BBC News, The Telegraph, Independent, and Yahoo Finance, all of which have featured stories based on studies and statistics emanating from the Complainant (Annex 8 to the Amended Complaint), what lead the RIGHTMOVE brand to enjoy considerable exposure to the general public.

Under the Complainant’s view, the disputed domain name replicates the Complainant’s RIGHTMOVE trademark entirely and is therefore confusingly similar therewith under the Policy. Moreover, the addition of the terms “houses” and “for” together with the “.sale” suffix reinforce the confusing similarity since Internet users will read “Rightmove houses for sale”.

Moreover, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent does not have any trademark rights for the term “rightmove” or any other terms used in the disputed domain name;
- (ii) the Respondent has not received any license from the Complainant to use domain names featuring the RIGHTMOVE trademark;
- (iii) the Respondent has not used, nor prepared to use, the disputed domain name in connection with a *bona fide* offering of goods or services, being the disputed domain name used by the Respondent to direct to a website displaying PPC advertisements;
- (iv) the Respondent is not commonly known by the disputed domain name; and
- (v) given that the Complainant’s trademark is inherently distinctive, with no dictionary meaning, enjoying a reputation and highly specific to the real estate property market, it is clear that the disputed domain name carries a high risk of implied affiliation and cannot constitute fair use.

Lastly, the Complainant submits that the Respondent both registered and is using the disputed domain name in bad faith in accordance with Paragraph 4(a)(iii) of the Policy, having clearly registered the disputed domain name to target the Complainant’s trademark intentionally, the composition of the disputed domain name in itself supporting such conclusion being it evident given that the Respondent’s choice of the disputed domain name could not have been accidental and must have been influenced by the Respondent’s knowledge of the Complainant’s prior rights at the time of registration of the disputed domain name. In addition to that the disputed domain name is being used in connection with PPC links in a clear attempt of commercial gain by misleading online users.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (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 disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A. Identical or Confusingly Similar

The Complainant has established its rights in the registered RIGHTMOVE trademark.

The Panel finds that the disputed domain name incorporates the Complainant's well-known trademark in its entirety. The addition of the dictionary terms "houses" and "for" together with the ".sale" top level domain read "Rightmove houses for sale" support a finding of confusing similarity.

It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), sections 1.7.

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, [the Respondent's use] of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, and according to the evidence submitted, the Complainant has made a *prima facie* case against the Respondent that the Respondent has not been commonly known by the disputed domain name, and neither has received any license from the Complainant to register or use domain names featuring the RIGHTMOVE trademark.

In addition to that, the lack of any good faith use of the disputed domain which is being used in connection with PPC links available at the parked webpage that resolves from the disputed domain name, does not characterize an evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.9.

Also, the absence of any indication that the Respondent has rights in a term corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate with the Panel's finding of the absence of rights or legitimate interests.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The second element of the Policy has therefore been established.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

- (i) circumstances indicating that [the Respondent] has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the complainants who are the owner of a trademark relating to the disputed domain name or to a competitor of the Complainants, for valuable consideration in excess of [the Respondent's] documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) [the Respondent] has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent] has engaged in a pattern of such conduct; or
- (iv) [the Respondent] has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (v) by using the disputed domain name, [the Respondent] has intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] website or other location, by creating a likelihood of confusion with the complainants' mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on [the Respondent's] website or location.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name, not having submitted a response;
- (ii) the use of the disputed domain name in connection with a parked webpage displaying PPC links;
- (iii) the well-known status of the Complainant's trademark; and
- (iv) the nature of the disputed domain name (reproducing the entirety of the Complainant's trademark albeit incorporated in a wider phrase), and the Respondent's intention to unduly profit from the value of the Complainant's trademark, suggest rather a clear indication of the Respondent's registration and holding of the disputed domain name in bad faith, with the implausibility of any good faith use to which the disputed domain name may be put.

For the reasons stated above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The third element of the Policy has therefore 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, <rightmovehousesfor.sale>, be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: January 26, 2023