

DISPUTE RESOLUTION SERVICE

D00024715

Decision of Independent Expert

RIGHTMOVE GROUP LIMITED

and

Jurgen Neeme

1. The Parties:

Lead Complainant: RIGHTMOVE GROUP LIMITED
2 Caldecotte Lake Business Park
Caldecotte Lake Drive
Caldecotte
Milton Keynes
Buckinghamshire
MK7 8LE
United Kingdom

Respondent: Jurgen Neeme
Koorti 12-10
Tallinn
Harju
13623
Estonia

2. The Domain Name:

righttmove.co.uk (the "Domain Name")

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 a such a nature as to call into question my independence in the eyes of one or both of the parties.

24 May 2022 15:05 Dispute received
24 May 2022 15:18 Complaint validated
24 May 2022 15:30 Notification of complaint sent to parties
14 June 2022 02:30 Response reminder sent
17 June 2022 15:52 No Response Received
17 June 2022 15:52 Notification of no response sent to parties
29 June 2022 02:30 Summary/full fee reminder sent
29 June 2022 14:29 Expert decision payment received
04 July 2022 10:49 Sent expert decision pack, expert appointment and conflict check documents

4. Factual Background

The Complainant, Rightmove Group Limited, operates the United Kingdom's largest real estate portal, available to the public via its website www.rightmove.co.uk. The website allows users to search for residential property, commercial property, new homes, rentals and overseas properties. It regularly attains over 115 million visits per month and advertises about 900,000 residential properties. More than 80% of all estate agents, letting agents and new home developers across the United Kingdom have signed up as members. Founded in the year 2000, the Complainant company floated on the London Stock Exchange in 2006 and is now a constituent of the FTSE 100.

The Complainant owns various trademark registrations for the word "RIGHTMOVE", including United Kingdom Trade Mark No. UK00002432055, filed on 8 September 2006 and registered on 27 July 2007, in classes 9, 35, 36, 38, and 42. The Complainant has operated the domain names <rightmove.co.uk> and <rightmove.com>, reflecting its trademark, since 7 September, 1999 and 30 July 1995, respectively.

The Respondent registered the Domain Name on 30 October 2018.

5. Parties' Contentions

Complainant

The Complainant asserts that the Domain Name <righttmove.co.uk> is similar to its registered "RIGHTMOVE" mark, which has acquired widespread goodwill among consumers since the Complainant's establishment in the year 2000. The Domain Name differs from the Complainant's mark only in that an additional letter "t" appears adjacent to the pre-existing "t" in the Complainant's "RIGHTMOVE" mark.

The Complainant notes DRS Policy paragraph 5.3, which creates a presumption of Abusive Registration in cases where the Respondent is found to have made Abusive Registrations in three DRS cases within the two years preceding the Complaint. The Complainant avers that a presumption of Abusive Registration arises in the present case, citing in support three recent DRS decisions, *i.e.*, the decision of the undersigned Expert in *L'Oréal v Jurgen Neeme*, DRS 23199 (4th January 2021); the decision in *Association des Centres Distributeurs E.LECLERC (A.C.D. Lec) v Jurgen Neeme*, DRS 23192 (13th January 2021); and the decision in *O2 Worldwide Limited v Jurgen Neeme*, DRS 24427 (8th March 2022).

Further to the above, the Complainant avers the Respondent, Jurgen Neeme, has engaged in a pattern of registering trademark-abusive domain names to prevent the trademark owners from reflecting their marks in corresponding domain names, within the meaning and purview of Policy Paragraph 5.1.3. The Complainant references some 20 domain name proceedings across various policies in which the Respondent is named as the respondent and where the expert panellists ruled in favour of the complaining party. The Complainant highlights that several of the cited decisions involved "typosquatting", where the disputed domain name replicates the complainants' trademark but for a small typographical error, such as the additional letter "t" contained in the Domain Name, a typosquatting variant of the Complainant's "RIGHTMOVE" trademark, in the present case.

The Complainant asserts that the Domain Name, which has no generic or descriptive meaning and can only reasonably be construed as a misspelling of the term "RIGHTMOVE", is an abusive registration in the hands of the Respondent. An Internet user seeing the domain name (or a corresponding website to which it resolves) will believe or be likely to believe, erroneously, that the Domain Name is connected to the Complainant. The Respondent has

created a misleadingly similar variant to the renowned “RIGHTMOVE” mark, by duplicating the ‘t’ in the middle of the mark, thereby conveying the erroneous impression that the Domain Name belongs to or is otherwise associated with the Complainant, when it is not.

Moreover, the Complainant avers, the Domain Name resolves to display pay-per-click (PPC) advertising links related to the Complainant’s core business, *i.e.*, real estate and property searches. That is, the Respondent’s website directs internet uses to third-party sites, including sites operated by the Complainant’s competitors, thereby unfairly disrupting the business of the Complainant.

Respondent

No response was received from the Respondent.

6. Discussions and Findings

To succeed under the Policy the Complainant must prove on the balance of probabilities, first, that he has rights in respect of a “name or mark” that is *identical or similar* to the Domain Name and secondly, that the Domain Name is an Abusive Registration.

Abusive Registration is defined in paragraph 1 of the Policy in the following terms:

Abusive Registration means a Domain Name which either:

- i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant’s Rights; or,*
- ii. is being or has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant’s Rights.*

Complainant’s Rights

Paragraph 2.3 of the DRS Expert’s Overview instructs that “a name or mark will ordinarily be regarded as identical to the domain name if, at the third level [...] they are the same.” Thus, it is again noted that, at the relevant third level, the sole distinction between the Complainant’s “RIGHTMOVE” trademark and the Domain Name is the addition of a second “t”. That is, the second and top-level domains, which consist of “.co” and “.uk”, respectively,

in the present case, being mere administrative requirements, are not considered in determining whether the Domain Name is "identical or similar" to the Complainant's trademark for the purposes of the Policy.

The Complainant has provided evidence of the existence of certain trademark registrations that it holds. From these registrations, as at the date of the registration of the Domain Name on 30 October 2018, the Complainant had rights in a name or mark "identical or similar" to the Domain Name.

Accordingly, the Complainant has successfully made out the requirement of paragraph 2.1.1 of the Policy.

Abusive Registration

The Complainant asserts that the Respondent engaged in a practice known as "typosquatting" by inserting an extra letter "t" in the Complainant's registered trademark "RIGHTMOVE" to create the Domain Name <righttmove.co.uk>.

The DRS Expert's Overview instructs that "the activities of typosquatters are generally condemned", citing by way of example DRS 03806 (privalege.co.uk). The Complaint references the discussion of "typosquatting" in *National Westminster Bank Plc. v. Albion Harbour Pty Limited*, DRS 5826, where the Expert expounded: "Typosquatting is a deliberate attempt to generate traffic from another's goodwill and inherently involves diversion and disruption. I find the registration was made for the very purpose of earning revenue from the diverted traffic through advertising and that it takes unfair advantage of the Complainant's Rights".

Robert Half International Inc. v. Digi Real Estate Foundation, DRS 02177, concerned a similar claim of typosquatting in relation to the disputed domain name <accounttemp.co.uk>. The complainant in that case operated a specialised staffing/recruitment firm under the name "ACCOUNTTEMPS", with several hundred offices worldwide. There, the disputed domain name differed from the complainant's trademark solely by the additional letter "t".

Noting the "quasi-generic nature of the complainant's trademark, and arguably the entirely generic nature of the Domain Name itself", and that the respondent's website "does not appear to offer 'account temp' services", but offers more general employment agency services, the Expert in *Robert Half* concluded nonetheless that the Respondent had not sought to dispute the complainant's contention. Accordingly, the Expert found that the choice of the domain name "was for the purpose of taking advantage of the imperfect

recollection or typing errors on the part of prospective customers of the complainant” and that the domain name was, therefore, an Abusive Registration.

Against the background of the *Robert Half* decision, which was found to be an abusive registration, the present case involves circumstances arguably more compelling a finding of an Abusive Registration.

Here, the Complainant adduced three DRS cases within the two years preceding the Complaint in which the Respondent was found to have made an Abusive Registration. This gives rise to a presumption of Abusive Registration in the present case following DRS Policy paragraph 5.3. The Respondent does not refute the presumption.

Further, in this case the Complainant referenced some 20 domain name proceedings across various policies in which the Respondent is named as the respondent, where the expert panellists ruled in favour of the complaining party, several of these same decisions involving “typosquatting”. This evidence reflects that the Respondent, Jurgen Neeme, has engaged in a pattern of registering trademark-abusive domain names to prevent the trademark owners from reflecting their marks in corresponding domain names, within the meaning of Policy Paragraph 5.1.3. The Respondent does not refute his proven pattern of serial cybersquatting.

Finally, as was the case in *Robert Half*,¹ the Respondent here, Jurgen Neeme, took pains to conceal his true identity. The WHOIS record does not reveal the name of the Registrant, which can be found in the record to have been obtained with assistance by Nominet through a search of the Respondent’s website to which the Domain Name resolves.

More than this, however, a screenshot of page two of the Respondent’s website submitted in evidence comprises a map depicting various real properties offered for sale in the greater London area along with a logo for “PropVerse.net” and “Samai.club”. I note that the website at www.propverse.net displays an artificial intelligence, or “AI”, assisted real estate search portal virtually identical to page two of the Respondent’s website. Notably, the Respondent’s name does not appear in the website.

I find this to be a straightforward case of typosquatting: where a deliberate misspelling of a well-known name or mark is used to attract web users to the

¹ Because this aspect had not been formally raised in the complaint in *Robert Half*, the Expert in that case expressly took no account of the respondent’s attempts at concealing its identity.

Respondent's website from which the Respondent presumably obtained PPC advertising revenues off the goodwill of the Complainant's famous brand.

In previous Nominet DRS decisions involving typosquatting, experts have had little difficulty in finding a likelihood that a substantial proportion of people arriving at the websites such as that operated by the Respondent (having made a minor spelling error by adding a second "t" in the middle of "RIGHTMOVE"), will be confused into believing that the websites are operated or authorised by the Complainant. Obtaining evidence of such confusion on the part of internet users is always very difficult, and the fact that the Complainant has not been able to do so does not mean that such confusion has not occurred.

My conclusion is that, on the balance of probabilities, such confusion will have occurred and is likely to continue to occur in the future. See, *e.g.*, DRS 02086 (carphonewarhouse.co.uk and thecarphonewarhouse.co.uk); DRS 02530 (merged with case DRS 02529) (camalot.co.uk and camalot.org.uk); DRS 02959 (morganstanley.co.uk); DRS 02961 (morgamstanley.co.uk and morganstanlet.co.uk); DRS 03054 (morgenstanley.co.uk and moganstanley.co.uk); DRS 03189 (morganstanlry.co.uk); and DRS 19110 (virignmedia.co.uk), and other DRS "typosquatting" decisions cited therein.

Accordingly, the Complainant has successfully made out the requirement of paragraph 2.1.2 of the Policy.

7. Decision

I find that the Complainant has Rights in the name RIGHTMOVE, which is identical to or similar to the Domain Name, and that the Domain Name, in the hands of the Respondent, a serial cybersquatter engaged in a pattern of registering trademark-abusive domain names, is an Abusive Registration.

I therefore determine that the Domain Name <righttmove.co.uk> should be transferred to the Complainant.

Signed



Dated

21 July 2022