

DISPUTE RESOLUTION SERVICE

D00021441

Decision of Independent Expert

T. Rowe Price Group, Inc.

and

Privacy Department

1. The Parties:

Lead Complainant: T. Rowe Price Group, Inc.
100 East Pratt Street
Baltimore
Maryland
21202
United States of America

Respondent: Privacy Department
Klapparstigur 7
Reykjavik
101
Iceland

2. The Domain Name(s):

trowprice.org.uk

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

28 May 2019 15:50 Dispute received

29 May 2019 12:39 Complaint validated

29 May 2019 12:48 Notification of complaint sent to parties

17 June 2019 02:30 Response reminder sent

20 June 2019 10:52 No Response Received

20 June 2019 10:52 Notification of no response sent to parties

24 June 2019 10:51 Expert decision payment received

26 June 2019 James Bridgeman SC appointed as Expert

4. Factual Background

The Complainant is a publicly-owned asset management firm with its global headquarters in Baltimore, Maryland, United States of America, engaged in international financial services.

The Complainant claims rights in the T. ROWE PRICE trademark in the United States based on use in commerce since at least as early as 1937; its registration of the T. ROWE PRICE mark in the United States since 1988; and its registrations of the mark in other countries across the world including:

- United Kingdom Trademark No. UK0002267305B, T. ROWE PRICE, registered on April 19, 2002 (class 36);
- European Union Trademark No. 002176642, T. ROWE PRICE, registered on September 30, 2002 (class 36); and
- European Union Trademark No. 002641900, T. ROWE PRICE, registered on July 1, 2005 (classes 9, 16, 36).

The Complainant, either directly or through its parent entity or other affiliated entities, also owns numerous Internet domain names which include the T. ROWE PRICE mark. These include the domain name <troweprice.com> which has directed Internet users to the Complainant's primary website since 1995 and <troweprice.uk> which resolves to the Complainant's geo-targeted United Kingdom website.

The disputed domain name was registered on 11 December 2018.

In the absence of a Response or other communication, there is no information available about the Respondent except for that which is set out in the Complaint and in the WhoIs.

5. Parties' Contentions

The Complainant claims rights in the T. ROWE PRICE mark relying on the above trade mark registrations and on the goodwill and reputation which it claims to have acquired in the mark by its widespread use in connection with its financial services business in the United States, the United Kingdom, and worldwide.

The Complainant, founded in 1937, submits that it now (either directly or through its affiliates) offers global investment management products, tools, and services, including mutual funds, subadvisory services, separate account management, recordkeeping, and related services for individuals, institutions, retirement plan sponsors, and financial intermediaries. As of 2018, the Complainant employed 571 investment professionals worldwide, had \$1.02 trillion in total assets under management, employed 187 fixed income professionals with \$135.8 billion in fixed income assets, and employed 326 equity professionals with \$579.3 billion in equity assets. As of June 2018, the Complainant ranked as the 15th largest asset management firm in the world by assets under management. The Complainant has offices and affiliates in various other jurisdictions around the world, including Australia, Denmark, Germany, Hong Kong, Italy, Japan, Luxembourg, the Netherlands, Singapore, Spain, Sweden, United Arab Emirates, and the United Kingdom.

The Complainant cites numerous instances where it has been recognised in world business media including for example in 2018, Fortune Magazine ranked T. Rowe Price 3rd in its industry among the “World’s Most Admired Companies”.

The Complainant submits that the disputed domain is identical or similar to the Complainant’s T. ROWE PRICE mark. The disputed domain name fully incorporates the Complainant’s mark and the only difference between the Complainant’s T. ROWE PRICE mark and the disputed domain name <trrowseprice.org.uk> is the omission of the letter from the domain name and the addition of <.org.uk> country-code Top-Level Domain extension at the second and top levels, respectively.

The Complainant submits that it is well-established that an Internet domain name which contains a common or obvious misspelling of a trademark normally will be found to be confusingly similar to such trademark, where the misspelled trademark remains the dominant or principal component of the disputed domain name. See, e.g., Dispute Resolution Service Experts Overview, Section 2.3 (“[A] name or mark will ordinarily be regarded as identical to the domain name if, at the third level, and ignoring the presence of hyphens and the absence of spaces and ampersands, they are the same. Mis-spelled versions of names are normally found to be similar to their originals.”); see also, e.g., Camelot Group plc v. Natalie Sozou, DRS 02530 (4 Apr. 2005) (ordering transfer of camalot.org.uk domain name, as being identical or similar to the complainant’s CAMELOT mark).

The Dispute Resolution Service Policy defines an “Abusive Registration” as a domain name that 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 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.

The Complainant points out that the disputed domain name was registered on 11 December 2018, long after the Complainant had used and registered its abovementioned trade marks and alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant asserts that the Respondent has never been authorized by the Complainant to use the T. ROWE PRICE marks in any manner, much less as part of the disputed domain name. Respondent has no legitimate interests in the disputed domain name given that the disputed domain name was registered well after the Complainant had registered the T. ROWE PRICE marks and had established extensive goodwill.

The disputed domain name fails to resolve to any active website following the successful efforts of the Complainant to suspend the website content through a notice and takedown letter to the web host associated with the disputed domain name. However, the associated IP Address (82.221.129.44) has been associated with prior malicious activity, and the disputed domain name is currently associated with an email server such that it could be used to conduct phishing and related fraudulent activities that misappropriate and misuse the T. ROWE PRICE brand, to the detriment of the Complainant's customers or prospective customers, or the public at large.

The Complainant submits that the Respondent's registration and use of the disputed domain name is abusive because it has prevented the Complainant from securing the registration of a confusingly similar domain name to its T. ROWE PRICE marks that could be used to deceive or misdirect consumers or conduct phishing or related fraud. Such conduct is considered abusive within the meaning of Policy Section 5.1.1.2. The Complainant complains that the Respondent registered this confusingly similar domain name despite the Complainant's well-established rights in the name, arguing that it is well-established that mere registration of a domain name can constitute unfair use of a domain name for the purposes of passing off and trade mark infringement, even if nothing more is done with the domain name. See Dispute Resolution Service "Experts" Overview, Section 3.3; see also, e.g. *BT v One In A Million* [1999] 1 WLR 903.

The Complainant further submits that the Respondent's registration and use of the disputed domain name is also abusive because it was primarily registered to unfairly disrupt the Complainant's business, or is threatening to unfairly disrupt The Complainant's business, within the meaning of Policy Section 5.1.1.3. The disputed domain name is associated with an IP Address that has been documented as being used in connection with malicious activity. The disputed domain name is also associated with email servers and so could be used in connection with email addresses using an "@trowprice.org.uk" extension to pose as personnel of the Complainant and conduct phishing or similar fraud that takes advantage of the fact that the disputed domain name is confusingly similar to the Complainant's T. ROWE

PRICE mark and the Complainant's T. ROWE PRICE domain names, including the "@troweprice.com" email extension legitimately used by the Complainant's personnel. This type of use has been found to constitute abuse under the Dispute Resolution Service Policy. See, e.g., Global Projects Management Ltd v Citigroup Inc. (citigroup.co.uk) [2005] EWHC 2663 Ch.; Siren Films Ltd v. David Eadington, DRS 12107 (sirenfilms.co.uk) (finding "a threatened abusive use can constitute "use" within the definition of abusive registration.").

Accordingly, the Complainant argues that the Respondent no doubt has knowledge of the Complainant and its business. The Respondent's registration of the disputed domain name thus threatens to disrupt the Complainant's business, through its potential to cause consumer confusion and conduct possible phishing or related fraud, which would frustrate Internet users and tarnish Internet users' impression of the Complainant and harm the goodwill associated with the Complainant's brand. See, e.g., Google Inc. v. Divya Taneja, DRS 17204 (May 2016) (gmailsuport.co.uk) ("The Respondent is engaging in a "phishing scheme", a practice "intended to defraud consumers into revealing personal and proprietary information" " in this case, users" confidential GMAIL passwords, which has the potential to cause significant and irreparable harm to the Complainant's goodwill and reputation in the GMAIL service.").

The Complainant further submits that the registration and use of the disputed domain name is also such that an Internet user seeing the domain name or the site to which it is connected is likely to believe that the domain name is registered to, operated or authorised by, or otherwise connected with the Complainant, when in fact it is not. This constitutes an Abusive Registration within the meaning of Policy Section 5.1.2.

The only possible purpose for this registration is for the Respondent to take advantage of the confusion caused by the disputed domain name and its similarity to the T. ROWE PRICE mark to perpetrate a malicious, abusive, or infringing scheme for commercial gain. This is supported by evidence showing that the IP Address associated with the disputed domain name which has been previously reported as being used in connection with malicious activity.

There is no evidence that Respondent is making any legitimate non-commercial or fair use of the disputed domain name, and the disputed domain name does not reflect a generic or dictionary term such that there is a possible fair or otherwise legitimate third-party use of such name. See Dispute Resolution Service Policy, Section 8.1.1.3; Section 8.1.2.

There is no evidence of any other conceivable non-abusive use of the disputed domain name.

The Complainant submits that accordingly, the disputed domain name is an "Abusive Registration" within the meaning of the Dispute Resolution Service Policy and the Complainant requests transfer of the disputed domain name.

6. Discussions and Findings

Rights and Similarity

In order to recover a domain name under the Dispute Resolution Service Policy, the Complainant must establish, on the balance of probabilities, that it has rights in respect of a name or mark which is identical or similar to the disputed domain name, and the disputed domain name, in the hands of the registrant, is an Abusive Registration.

The Complainant has established that it has rights in the , T. ROWE PRICE trademark through extensive use of the mark in commerce and through its portfolio of trademark registrations including United Kingdom Trade Mark No. UK0002267305B, T. ROWE PRICE, registered on April 19, 2002 (class 36);

Having compared both, this Expert is satisfied that the disputed domain name is similar to the Complainant's , T. ROWE PRICE mark. It is identical except for the omission of a period or dot after the first letter "t", the omission of the letter "e" in the word "rowe" and the addition of the ccTLD technical extension ".gov.uk". The absence of the period or dot is not significant for the purposes of comparison because this is not uncommon in Internet domain names; neither does the omission of the letter "e" distinguish the domain name from the mark as it is likely to be silent when the two words are pronounced; and it is well established that a ccTLD <.gov.uk> can be ignored in most cases for the purposes of comparison and having compared both this Expert is satisfied that it may be ignored in this case. Additionally the misspelled trademark remains the dominant or principal component of the disputed domain name.

This Expert finds therefore that the disputed domain name is similar to the , T. ROWE PRICE trademark in which the Complainant has Rights.

Given that the Complainant's mark is a unique combination of elements and given that the Complainant has shown that it has acquired a substantial international reputation and goodwill in the T. ROWE PRICE trade mark and service mark, it is improbable that the registrant was unaware of the Complainant, its mark and its domain name <troweprice.com> which has directed Internet users to the Complainant's primary website since 1995 when disputed domain name was chosen and registered on 11 December 2018.

The disputed domain name is very similar to the Complainant's mark; the Complainant has not given the Respondent any permission to use its mark; there is no indication that the Respondent has any bona fide right or interest in the Complainant's mark or in the word "trowprice"; the Complainant has made

allegations, which have not been refuted, that the disputed domain name is associated with servers which have in the past been reported as being used in connection with malicious activity.

In the circumstances plausibly described in the Complaint, and in the absence of any Response or other communication from the Respondent, this Expert finds that on the balance of probabilities the disputed domain name was intentionally chosen and registered in order to take predatory advantage of the Complainant's goodwill, reputation in its corporate name and mark.

Given the nature of the Complainant's commercial activities, the fact that the Respondent has not refuted the Complainant's allegations that the IP Address associated with the disputed domain name which has been previously reported as being used in connection with malicious activity, the Complainant's concerns that the disputed domain name may be used for phishing are very reasonable.

This Expert finds therefore that on the balance of probabilities, the disputed domain name is an Abusive Registration.

The Complainant, having established both elements of the test in the DRS Policy is entitled to receive the transfer of the disputed domain name as requested.

7. Decision

This Expert directs that the disputed domain name <trouprice.org.uk> be forthwith transferred to the Complainant.

Signed
James Bridgeman SC
Expert

Dated 4 July 2019