

Decision for dispute CAC-UDRP-104959

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| Case number | CAC-UDRP-104959 |
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| Time of filing | 2022-10-31 10:05:17 |
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| Domain names | pricerunnerr.com |
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Case administrator

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| Organization | Denisa Bilík (CAC) (Case admin) |
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Complainant

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| Organization | PriceRunner International AB |
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Complainant representative

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| Organization | SILKA AB |
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Respondent

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| Name | Char Peter |
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

In this proceeding the Complainant relies on the following trademarks:

- The UK Trademark No. UK00903908531 "PRICERUNNER" (word mark), registered on April 6, 2006, for goods and services in classes 9, 35, 38, 41 and 42;
- The EU Trademark No. 003908531 "PRICERUNNER" (word mark), registered on April 6, 2006 for goods and services in classes 9, 35, 38, 41 and 42;
- The EU Trademark No. 004258794 "PRICERUNNER.COM" (word mark), registered on March 21, 2006 for goods and services in classes 9, 35 and 42;
- The International Trademark No. 866969 "PRICERUNNER" (word mark), registered on January 26, 2005 for services in class 35, designating, inter alia, Norway, Switzerland and Japan; and
- The US Trademark No. 4975600 "PRICERUNNER" (word mark), registered on June 14, 2016, for goods and services in classes 35, 38 and 41.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

The Complainant was founded in 1999 and is a Swedish tech company headquartered in Stockholm.

The Complainant launched the online product and price comparison service “PriceRunner” back in 1999, which allows internet users to compare prices on a range of products.

The Complainant alleges that with more than 200 employees, it is the leading comparison-shopping service in the Nordic region with operations in Sweden, Denmark, Norway and the United Kingdom, and approximately 18.2 million visits every month in all countries.

The Complainant hosts at its base 3.4 million products from 22,500 e-shops in 25 European countries and had revenues of EUR 46 million in 2021.

The Complainant officially became a part of the “Klarna” Group on April 1, 2022. “Klarna” is a Swedish global payments and shopping service.

The Complainant refers to its “PRICERUNNER” and “PRICERUNNER.COM” trademarks and to its main website www.pricerunner.com under the domain name registered back in 1999.

The Complainant highlights that its trademarks predate the disputed domain name that was registered on September 13, 2022.

The Complainant states that the disputed domain name includes its “PRICERUNNER” and “PRICERUNNER.COM” marks in full, with the addition of a letter “r”, which can be considered as a typographical error.

Therefore, the Complainant argues that the disputed domain name is a typical typosquatting case, since it reproduces Complainant’s “PRICERUNNER” and “PRICERUNNER.COM” marks in their entirety but with a minor alteration of letters, which does not change the overall impression that the trademark is sufficiently recognizable within the disputed domain name.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant states the Respondent is not a licensee of the Complainant, and has not received any consent, permission or authorization from the Complainant to use its marks in association with the registration of the disputed domain name.

The Complainant alleges that the Respondent does not hold any trademark rights in respect of the disputed domain name and has not been commonly known by the disputed domain name or by the term “pricerunnerr”.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

On the contrary, the Complainant argues that the disputed domain name resolves to a website in several languages which includes in an unauthorized manner Complainant’s “PRICERUNNER” mark in full, as well as the logo of the Complainant.

The Complainant alleges impersonation by the Respondent and refers to one instance where an individual was confused about the nature of the website by the disputed domain name and was a fraud victim.

Therefore, the Complainant claims the disputed domain name was used for unlawful purposes, of obtaining money and personal information from Internet users.

Such deceptive, confusing and unlawful use of the disputed domain name cannot in any way amount to a bona fide offering of goods or services.

Besides, typosquatting itself negates any rights or legitimate interests as it creates confusion with the Complainant and its marks and indicates impersonation of the Complainant.

THE DISPUTED DOMAIN NAME WAS REGISTERED AND BEING USED IN BAD FAITH

As regards bad faith registration the Complainant’s submissions can be summarized as follows:

- Complainant’s trademarks pre-date registration date of the disputed domain name and the Respondent should have aware of the marks since the term “pricerunner” is associated with the Complainant;
- The disputed domain name is almost identical to Complainant’s marks and, in the Complainant’s view, it is impossible to believe the Respondent registered the disputed domain name without having them (the marks) in mind;
- A simple search in the online trademark registers or in the search engine at the date of registration of the disputed domain name would have informed the Respondent about the existence of Complainant’s rights in the “PRICERUNNER” or “PRICERUNNER.COM” marks;
- Typosquatting is an indication of bad faith per se;
- The use of the disputed domain name also indicates registration in bad faith since the website by the disputed domain name reproduces Complainant’s trademark as well as logo.

As regards bad faith use the Complainant claims the following:

- The use of both the mark of the Complainant and its logo on the website by the disputed domain name indicates impersonation;
- The website by the disputed domain name seems to collect users’ information for login purposes. Therefore, the Complainant states the Respondent used the disputed domain name to impersonate the Complainant, or otherwise misled Internet users as to the source of Respondent’s website, in order to engage them in a phishing scheme, which amounts to bad faith;
- The Respondent is using without Complainant’s permission the “PRICERUNNER” mark to intentionally attempt to attract for commercial gain Internet users to the website hosted by the disputed domain name, by creating likelihood of confusion with the “PRICERUNNER” mark as to the source, sponsorship, affiliation or endorsement of the web site or services offered, which amounts to registration and use in bad faith in accordance with paragraph 4 (b)(iv) of the UDRP and

- Respondent's use of a privacy registration service for the disputed domain name is an additional indication for a finding of bad faith registration and use.

Therefore, the Complainant claims the disputed domain name was registered and being used in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or confusingly similar with Complainant's trademark

The Complainant owns various "PRICERUNNER" trademarks effective *inter alia* in the UK, the EU and the US.

As confirmed by "WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition" ("WIPO Overview 3.0"), see paragraph 1.2.1: "Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case".

The disputed domain name fully incorporates the word trademark of the Complainant with the addition of the letter "r" in the end. This represents a misspelling of the Complainant's "PRICERUNNER" and "PRICERUNNER.COM" marks.

As stated in WIPO Overview 3.0: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark" (see par. 1.9).

In the present case, the Complainant's word trademark is fully included in the disputed domain name with an obvious misspelling and the Complainant's mark is clearly recognizable within the disputed domain name.

The gTLD ".com" is to be disregarded under the confusing similarity test as it does nothing to eliminate confusion.

Therefore, the Panel finds that the first requirement of the Policy has been satisfied.

B. Rights or Legitimate Interests

The general rule is the following:

(i) a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests; and

(ii) once such prima facie case is made, the burden shifts to the respondent who has to demonstrate his rights or legitimate interests in respect of the domain name under paragraph 4 (c) of the Policy.

If the respondent fails to do so, the second element of the Policy is satisfied, see *Julian Barnes v. Old Barn Studios*, WIPO Case No. D2001-0121; *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. D2004-0110 and CAC Case No. 101284.

According to the Whois data, the disputed domain name was registered on September 13, 2022. The disputed domain name is inactive on the date of this decision.

However, the Complainant provided evidence that the disputed domain name was previously used for a website that contained a login and registration page and Complainant's mark depicted as "PriceRunner".

The Respondent did not respond.

While failure to respond does not per se demonstrate that the Respondent does not have rights or legitimate interests, it allows the Panel to draw such inferences as it considers appropriate (see paragraph 14(b) of the Rules).

The Complainant has made a prima facie case of Respondent's lack of rights or legitimate interests.

The Respondent is not known at the disputed domain name and is identified as Char Peter.

According to the Registrar's verification data the Respondent is from Afghanistan, yet his telephone number contains a + 853 country code that is a code for Macau, China.

Other data of the Respondent also looks suspicious, e.g. city is represented by random letters and it appears that at least some of Respondent's data is false.

The Complainant has not granted any license or authorization to use its trademark to the Respondent, the Complainant is not doing any business with the Respondent and there is no any other indication of possible rights or legitimate interests of the Respondent in this dispute.

The disputed domain name represents a misspelling of Complainant's trademark with the addition of the letter "R" in the end of the "Pricerunner" word.

Typosquatting does not create any rights or legitimate interests of the Respondent.

Previous UDRP panels noted that in such circumstances respondent does not have rights or legitimate interests, see e.g. CAC Case No. 104298 ("The disputed domain names are typosquatted versions of its trademark which is further proof that the Respondent has no rights or legitimate interests under the Policy..."); CAC Case No. 104715 ("These circumstances suggest to the Panel that the Respondent is seeking to capitalize deliberately on a predictable pattern of mistyping of the Complainant's mark by such users...") and CAC case No. 104778 ("In this case, the Panel finds that the disputed domain name can be considered as virtually identical to the Complainant's trademark as it simply adds two letters identical to the respective letters next to these, resulting in a high risk of implied affiliation").

Besides, the disputed domain name was used in a manner that appears to be an attempt of impersonation of the Complainant and for fraudulent purposes. As noted by WIPO Overview 3.0: "Panels have categorically held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent" (see par. 2.13.1).

The Panel does not see any possible rights or legitimate interests of the Respondent in such circumstances given the nature of the disputed domain name, manner of use of the disputed domain name and lack of response.

Therefore, the Panel finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists non-exhaustive circumstances indicating registration and use in bad faith.

These circumstances are non-exhaustive and other factors can also be taken into consideration.

It is well established that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see par. 3.1 of WIPO Overview 3.0). Targeting is important in establishing bad faith under UDRP.

The Panel finds the Complainant provided persuasive arguments and evidence of both registration and use of the disputed domain name in bad faith based on the following:

1) The nature of the disputed domain name - misspelling of the "PRICERUNNER" and "PRICERUNNER.COM" mark. This represents a clear case of typosquatting. Typosquatting itself indicates targeting and bad faith as confirmed by previous UDRP decisions such as CAC Case No. 103697 ("The Panel believes that this case is an example of typosquatting which is one of the model situations of bad faith ... (paragraph 4(b)(iv) of the Policy)"); CAC Case No. 103336 ("the domain names are calculated to trade on Complainant's name by exploiting it in a practice known as typosquatting. Absent any evidence to the contrary, this supports a presumption bad faith...") and

CAC Case No. 102917 ("typosquatting discloses an intention on the part of the respondent to confuse users seeking or expecting to find a website related to the Complainant");

2) The fact that the disputed domain name was registered many years after the registration and use of the Complainant's trademarks as well as reputation and certain popularity of Complainant's marks as proven by the available evidence (including publications and press-releases as well as search results);

3) The nature of use of the disputed domain name indicating an intent to impersonate the Complaint and possibly deceive the consumers as well as provided evidence of deception;

4) The Respondent's failure to respond and provide explanations for his choice of the disputed domain name highly similar with the Complainant's trademarks registered many years prior to registration date of the disputed domain name as well as provision of false contact information by the Respondent;

5) The Panel does not see any plausible explanation for the Respondent's registration of the disputed domain name other than taking advantage of Complainant's trademarks and does not see any plausible good faith use of the disputed domain name that is an obvious misspelling of the Complainant's mark.

Based on the above, the Panel finds that Respondent's behavior falls within, at least, within par. 4 b (iv) of UDRP and the Respondent by using the disputed domain name has intentionally attempted to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement and that the Respondent takes unfair advantage of the Complainant's "PRICERUNNER" and "PRICERUNER.COM" marks.

The Panel holds that the third requirement of the Policy has been satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **pricerunnerr.com**: Transferred

PANELLISTS

| | |
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| Name | Igor Motsnyi |
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| DATE OF PANEL DECISION | 2022-11-26 |
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Publish the Decision