Decision for dispute CAC-UDRP-106072

Case number	CAC-UDRP-106072
Time of filing	2023-12-15 10:43:45
Domain names	pricerunner.online

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	PriceRunner International AB

Complainant representative

Organization	SILKA AB

Respondent

Organization	Price Runner

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

The Complainant is the owner of the following PRICERUNNER trademarks:

- International registration PRICERUNNER No 866969 registered on January 26, 2005 and renewed, protected in class 35;
- Swedish trademark PRICERUNNER No 371312 registered on March 24, 2005 and renewed, protected in class 35;
- EU trademark PRICERUNNER.COM No 004258794 registered on March 21, 2006 and renewed, in classes 9, 35 and 42;
- EU trademark PRICERUNNER No 003908531 registered on April 6, 2006 and renewed, protected in classes 9, 35, 38, 41 and 42;
- UK trademark PRICERUNNER No UK00903908531 registered on April 6, 2006 and renewed, in protected classes 9, 35, 38, 41 and 42;

The Complainant also claims rights on domain names, such as <pricerunner.com>, <pricerunner.org>, <pricerunner.se>, <pricerunner.co.uk>, <pricerunner.uk>, <pricerunner.dk>, <pricerunner.us>, and <pricerunner.in>.

FACTUAL BACKGROUND

The Complainant, founded in Sweeden in 999, is a price comparison service which enables users to compare prices and offers on over five million products involving more than 6,000 retailers.

The Complainant receives an average of more than 15 million visits to its online offerings each month, and also has approximately 21 million monthly service recipients in the EU.

It has operations in Sweden, the UK, Denmark and Norway, and more than 150,000 verified user reviews of associated products and retailers. It operates, among other websites, the websites www.pricerunner.com and www.pricerunner.se.

The Complainant has a notable online presence with, for example, more than 75,000 followers on Facebook. It has a mobile application and its Google Play app has been downloaded more than 100,000 rimes.

The disputed domain name <pricerunner.online>was registered on June 22, 2023 and resolved in July to a website "PRICERUNNER SEARCH WITH EASE" ranking blogs "Search with ease". This website was impersonating the Complainant by using its trademark and company name PRICE RUNNER.

There was no other online presence under the disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT:

The Complainant has produced evidence of its PRICERUNNER trademark's rights.

The disputed domain name <pricerunner.online> (also referred to as “Domain Name”) consists of the PRICERUNNER mark in full, without any alteration or addition, and is therefore identical to the PRICERUNNER trademark, for the purposes of the first element of the Policy, according to its Paragraph 4(a)(i).

Absence of rights or legitimate interest

The Complainant submits that the Respondent lacks rights or legitimate interests in the Domain Name. Following the submissions made in this section of the Complaint, the burden shifts to the Respondent to put forward evidence to show that it has rights or legitimate interests in the Domain Name.

The Respondent did not register any PRICERUNNER trademark and has not been licensed by the Complainant to register the Domain Name and use its PRICERUNNER trademark. The Respondent is not connected or affiliated with the Complainant.

Upon disclosure of the Whois data, it appeared that the Respondent is located in India and was impersonating the Complainant by providing the name PRICE RUNNER as the registrant´s name, in the Whois data.

The Complainant submits that the Respondent has not used, nor prepared to use, the Domain Name in connection with a bona fide offering of goods or services, nor some legitimate non-commercial or fair use.

An archived screenshot of the Domain Name’s site from July 2023 indicates that it previously resolved to a partially configured site-building template which brandished the heading ‘Price Runner [/] SEARCH WITH EASE’. This page included a search bar, apparent shopping-cart functionality, and a series of auto-generated blog titles and text. The blogs are all dated 22 June 2023, corresponding with the Domain Name’s creation date, and appear to have been auto-generated based on the contents of the abovementioned site title.

All of the above circumstances indicate that the Respondent, at or shortly after the point of registration, merely parked the Domain Name on some default site-creation template of its choice and, other than adding the Complainant’s name and PRICERUNNER brand to the template logo, took no further action to develop the site. The Respondent’s conduct, by essentially parking the Domain Name, does not reflect some actual or intended bona fide use, nor does it amount to legitimate non-commercial or fair use. On the contrary, the Complainant submits that the Respondent’s reproduction of the Complainant’s name and mark on the site, even if incomplete, reflects the Respondent’s intention to capitalise on the value of the PRICERUNNER brand by creating the false impression that the site is controlled by or associated with the Complainant.

The Complainant further submits that the Domain Name, being identical to the Complainant’s distinguished PRICERUNNER mark, creates a high risk of implied affiliation.

The Complainant submits that the Respondent is not known, nor has ever been known, by its distinctive PRICERUNNER mark, nor anything similar.

The Complainant contends that it has presented a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name for the purposes of paragraph 4(a)(ii) of the Policy.

Bad faith registration and use of the disputed domain name

The Complainant submits that its PRICERUNNER mark is distinctive and widely known online.

The Complainant submits that the Respondent’s selection of the ‘.online’ TLD in conjunction with the Complainant’s established

PRICERUNNER mark, is further evidence of the Respondent's prior knowledge of, and intent to capitalise on the trademark value of the PRICERUNNER brand, when it registered the disputed domain name.

The Respondent has intentionally attempted to attract, for commercial gain, internet users by creating a likelihood of confusion with the Complainant's PRICERUNNER mark and giving the false impression that it is controlled by or associated with the Complainant.

It was prominently displaying the Complainant's name and brand in conjunction with the phrase 'SEARCH WITH EASE', directly connoting the Complainant's offerings of an online price comparison's service, without any disclaimer.

The list of circumstances of bad faith under paragraph 4(b) of the Policy are non-exhaustive, and panels have repeatedly held that the non-use of a domain name would not prevent a finding of bad faith under the passive holding doctrine. Relevant considerations include: '(i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.' (WIPO Overview 3.0, section 3.3.)

It is clear, given the renown of the PRICERUNNER mark and composition of the Domain Name, which carries a high risk of implied affiliation with the Complainant, that no good faith use could be made of it by the Respondent.

In view of the foregoing, the Complainant requests that the Panel makes a finding of bad faith registration and use under paragraph 4(a)(iii) of the Policy.

RIGHTS

To prevail in the proceedings under the Policy, the Complainant must show that the three requirements set forth in paragraph 4(a) of the Policy are met. Those requirements are:

(i) the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name has been registered and is being used in bad faith.

Likewise, under paragraph 4(c) of the Policy, the Respondent can demonstrate its rights and legitimate interests in the disputed domain name in its response to the Complaint by demonstrating, among others, the circumstances mentioned under this paragraph of the Policy.

Identical or Confusingly Similar

The Panel finds the Complainant has shown prior rights in respect of PRICERUNNER trademark for the purposes of the Policy.

The disputed domain name is composed of the PRICERUNNER trademark

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

As set forth by paragraph 4(c) of the Policy, any of the following circumstances, in particular, but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the Respondent's rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to the respondent of the dispute, its use of, or demonstrable preparations to use, the domain name or a name corresponding to the 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 domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has not been licensed or authorized to use the PRICERUNNER trademark or to register the disputed domain name.

He has usurped the Complainant's name when it registered the disputed domain name.

The searches that were conducted in India, where the Respondent is domiciled, did not allow to identify any company called PRICE RUNNER.

It confirms that the Respondent usurped the Complainant's name, to impersonate the Complainant.

The disputed domain name was used for a while to resolve to a parking website which generates pay-per-click revenues. It means that it was used with an intent for commercial gain, taking advantage of the reputation of the PRICERUNNER trademark.

It can not be regarded as a bona fide offering of goods or services.

The Respondent did not respond to the Complainant in order to provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the disputed domain name.

Therefore, the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in respect to the disputed domain name, which was not rebutted by the Respondent

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

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by an Administrative Panel to be evidence of bad faith registration and use of a domain name. It provides that:

"For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

In the present case, the Panel notes that, given the well-known character of the PRICERUNNER trademark, the Respondent, who has hidden its identity and usurped the Complainant's company name when it registered the disputed domain name, was clearly behaving in bad faith.

The use to resolve to a parking website was meant to generate pay-per-click revenues, as explained hereabove.

Such a use is in 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

The disputed domain name <pricerunner.online>consists of the PRICERUNNER mark in full, without any alteration or addition, and is therefore identical to the PRICERUNNER trademark.

The Respondent has not been licensed or authorized to use the PRICERUNNER trademark or to register the disputed domain name.

He has usurped the Complainant's name when it registered the disputed domain name.

The disputed domain name was used for a while to resolve to a parking website which generates pay-per-click revenues.

It can not be regarded as a bona fide offering of goods or services.

The Respondent did not respond to the Complainant in order to provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the disputed domain name.

In the present case, the Panel notes that, given the well-known character of the PRICERUNNER trademark, the Respondent, who has hidden its identity and usurped the Complainant's company name when it registered the disputed domain name, was clearly behaving in bad faith.

The use to resolve to a parking website was meant to generate pay-per-click revenues, as explained hereabove.

Such a use is in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **pricerunner.online**: Transferred

PANELLISTS

Name	**Marie-Emmanuelle Haas Avocat**

DATE OF PANEL DECISION 2024-01-25

Publish the Decision