Decision for dispute CAC-UDRP-107018

Case number	CAC-UDRP-107018
Time of filing	2024-11-04 09:57:40
Domain names	oldschoolrsps.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Jagex Limited

Complainant representative

Organization	Stobbs IP

Respondent

Name	Renato Jimenez

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

Complainant is the owner of multiple trademarks for RUNESCAPE, its abbreviation RS and RS OLD SCHOOL, in particular:
- the trademark RUNESCAPE registered with the UK Intellectual Property Office with registration number UK 00002302308 and registration date 27 December 2002;
- the trademark RS registered with the UK Intellectual Property Office with registration number UK 00905122916 and registration date 10 May 2007; and
- European Union trademark RS OLD SCHOOL, registration number 018578054 and registration date 1 August 2022.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <oldschoolrsps.com> was registered on 24 October 2019.

The disputed domain name resolves to a website with a pirated copy of Complainant’s computer game Old School RuneScape.

PARTIES CONTENTIONS

Complainant:
Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

According to the information provided by Complainant, Complainant was incorporated in 2000 and since then has carried on the business of designing, developing, publishing, and operating online video games and other electronic-based entertainment. Complainant submits that it is well-known internationally for its Massively Multiplayer Online Role-Playing Games ("MMORPG") RuneScape and Old School RuneScape. RuneScape was launched in January 2001. An entirely separate incarnation of RuneScape was released in February 2013 under the name "Old School RuneScape", based on a copy of the game dating from August 2007. Together, the two games average a total of more than 3 million active users per month. Old School RuneScape has been recognized by the Guinness World Records for being the largest free-to-play MMORPG with over 300 million accounts. Complainant owns the domain name <runescape.com>, which has resolved to an active website relating to online video games since at least as early as 17 August 2000.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademarks. The disputed domain name incorporates the RS OLD SCHOOL trademark as the dominant element, along with the letters "ps'. The inclusion of descriptive or generic terms alongside Complainant's trademark does nothing to alter the impression in the eyes of the average Internet user. Complainant submits, that in this context, the letters "ps" refer to the term "private server" which is understood to refer to pirated versions of games operated on a dedicated, closed server. As a whole the disputed domain name <oldschoolrsps.com> refers to an Old School RuneScape Private Server, which describes the domain's service, i.e. a pirated version of Complainant's Old School RuneScape game.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Based on the considerable reputation enjoyed by Complainant in its RuneScape brands, there is no believable or realistic reason for registration or use of the disputed domain name, other than to take advantage of Complainant's rights and reputation. The disputed domain name was registered in 2019. By this point, Complainant already had extensive rights (both registered and unregistered) in its RuneScape brands, with a notable online presence. Complainant submits, supported by evidence, that Respondent is using the disputed domain name to resolve to a website which offers a pirated version of Complainant's Old School RuneScape game. Prior panels have consistently held use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent (WIPO Overview 3.0, paragraph 2.13.1).

According to Complainant the disputed domain name is registered and is being used in bad faith. Complainant asserts that, it is clear that Respondent was unequivocally aware of the RuneScape brands, given Respondent's deliberate impersonation of Complainant's RuneScape brands, and of Complainant's RuneScape and Old School RuneScape in-game assets and mechanics. In particular the website under the disputed domain name is promoting a pirated copy of the Old School RuneScape game.

Respondent:
No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademarks. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of trademark registrations for RUNESCAPE, its abbreviation RS and for RS OLD SCHOOL. The disputed domain name incorporates the entirety of the well-known RS OLD SCHOOL trademark as its distinctive element. The addition of the generic letters "ps" and the inversion of the RS and OLD SCHOOL parts of the trademark in the disputed domain name, are insufficient to avoid a finding of confusing similarity. The top-level domain "com" in the disputed domain name may be disregarded.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. Based on the undisputed submission and evidence provided by Complainant, as summarized above, Respondent uses the disputed domain name to promote a pirated copy of the Old School RuneScape game of Complainant. Panels have held that the use of a domain name for illegal activity such as offering a pirated copy of a computer game can never confer rights or legitimate interests on a respondent. WIPO Overview 3.0, section 2.13.1. The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name. Respondent is also not commonly known by the disputed domain name nor has it acquired any trademark or service mark rights. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the RUNESCAPE, RS and RS OLD SCHOOL trademarks. Especially in view of the undisputed fact that the Old School RuneScape computer game has been on the market since 2007 with a notable online presence Respondent knew or should have known that the disputed domain name included Complainant's well-known registered or unregistered brands. The registration of the disputed domain name under these circumstances and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Panel notes the undisputed submission, supported by evidence, of Complainant that the disputed domain name resolves to a website with a pirated version of Complainant's Old School RuneScape computer game. The Panel takes into account that previous panels have held that the use of a domain name for illegal activity, such as applicable to this case offering a pirated version of the Old School RuneScape computer game of Complainant, constitutes bad faith. WIPO Overview 3.0, section 3.4.
The Panel further notes that the disputed domain name incorporates Complainant's well-known trademark in its entirety which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **oldschoolrsps.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-12-04

Publish the Decision