Decision for dispute CAC-UDRP-107270

Case number	CAC-UDRP-107270
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Domain names	rune-rift.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Jagex Limited

Complainant representative

Organization	Stobbs IP

Respondent

Organization	TrentaHost INC.

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 claims ownership of “RUNE”, “RUNESCAPE”, and the other “RUNE-formative” trademarks across the globe and relies on the following trademark registrations:

- UK national trademark No.UK00911161239 “RUNE” (word), registration date is October 09, 2013, filing date is September 04, 2012;
- European Union (EU) Trademark Registration No.011161239 “RUNE” (word), registration date is October 09, 2013, filing date is September 04, 2012 and
- EU Trademark Registration No.018622946 “RUNE” (word), registration date is May 20, 2022, filing date is December 16, 2021.

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 states that it has carried on the business of designing, developing, publishing, and operating online video games

and other electronic-based entertainment since 2000.
It claims to be well-known internationally for its Multiplayer Online Role-Playing Games (“MMORPG”) “RuneScape” and “Old School RuneScape” (collectively, the “Games”). Together, the Games average a total of more than 3 million active users per month since October 2022. “Old School RuneScape” has been recognized by the “Guinness World Records” for being the largest free-to-play MMORPG with over 300 million accounts.
The Complainant refers to its main domain name <runescape.com> registered since 2000 that is used for promoting the Games and other domain names incorporating its "RUNE" trademarks that resolve to active websites.
The Complainant provides evidence of active use of social media, including “Instagram” and “X” (formerly known as “Twitter”) for promoting the Games and claims that its social media activity has generated a significant level of endorsement. The Complainant has also received public and critical praise for its Games, including “2019 EE Mobile Game of the Year” at the British Academy Games Awards for its “Old School RuneScape”.
The Complainant relies on its “RUNE” trademark registrations, including the ones provided above, and contends that the disputed domain name is confusingly similar to its trademarks.
The disputed domain name includes the Complainant’s “RUNE” trademark as the dominant element, along with the term ‘RIFT”, that can be considered descriptive since it is a common term used in the Complainant’s Games and is mentioned in the Games' "WIKI".

The addition of the gTLD “.COM” should be disregarded for the confusing similarity analysis, as it is merely a technical requirement used for domain name registrations.

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

The Complainant asserts that based on the considerable reputation enjoyed by the Complainant in its “RUNE” and “RUNESCAPE” marks, there is no believable or realistic reason for registration or use of the disputed domain name, other than to take advantage of the Complainant’s rights and reputation.
The Complainant claims that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name and no provisions in the Policy on rights or legitimate interests or any other possible scenarios can be applied to the Respondent.
In particular, the Complainant contends that the Respondent used the disputed domain name to resolve to an active website that offered a “pirated version” of the Complainant’s game in violation of the Complainant’s EULA.
The Complainant cites “WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition” (“WIPO Overview 3.0”), sec. 2.13.1 that “use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonating/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent”.

THE DISPUTED DOMAIN NAMES WAS REGISTERED AND IS BEING USED IN BAD FAITH

The Complainant’s submissions on the bad faith element can be summarized as follows:
- The Complainant’s trademarks significantly pre-date the registration of the disputed domain name and the Complainant enjoys a substantial reputation in the “RUNE” brand. The Respondent was aware of the “RUNE”, “RUNESCAPE” and RUNE-formative brands, given the Respondent’s deliberate impersonation of the Complainant;
- Given the impersonation and previous use of the disputed domain name to offer an illegal copy of the Complainant's game for download, the Respondent had prior knowledge of the Complainant and its marks;
- The Respondent disrupts the Complainant’s business by diverting potential customers to the website associated with the disputed domain name;
- While the disputed domain name currently does not resolve to an active webpage, the Complainant claims that the Respondent’s behavior falls within bad faith registration and use in accordance with the “passive holding” doctrine, affirmed through previous panel decisions under section 3.3 of WIPO Overview 3.0;
- Given the distinctiveness of the Complainant’s mark and global reputation of the Games, the evidence of impersonation, the Respondent’s actual knowledge is clear and the Complainant claims that there is no plausible reason why the Respondent registered the disputed domain name other than to target the Complainant and its trademarks;
- In its supplemental filing the Complainant adds that an aggravating factor of the Respondent’s bad faith is identity obfuscation as provided in sec. 4.4.6 of WIPO Overview 3.0, namely the use of a “Russian doll” scenario – where the disclosed registrant appears to be another privacy service.

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

PARTIES CONTENTIONS

The Complainants' contentions are summarized in the Factual Background section above.

No administratively compliant Response has been filed.

The Respondent, “TrentaHost Inc” submitted an informal response and stated that it is a reseller of domain names and web hosting and that its client entered “TrentaHost Inc.” contact information as registrant’s information.
“TrentaHost Inc” identified its end client as “Eric Zidonis” and provided a copy of its communication with Eric Zidonis after the commencement of this proceeding where the latter says that “you can transfer or cancel” the disputed domain name.

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.

Identity of Respondents

According to the Registrar verification the Respondent is identified as "TrentaHost Inc". "TrentaHost Inc." in its informal response claims to be a reseller of domain names rather than the underlying registrant. It appears from the communication provided by "TrentaHost Inc." that the beneficial owner of the disputed domain name is "Eric Zidonis".
The Complainant in its supplementary submission requested the Panel to record both "TrentaHost Inc" and "Eric Zidonis" as co-Respondents referring to previous case law and WIPO Overview sec. 4.4.5.
The Panel agrees and will refer to both "TrentaHost Inc" (identified registrant) and "Eric Zidonis" (client of "TrentaHostInc" or the underlying registrant) as "Respondent" (in singular).

Consent to transfer

The Respondent expressed his consent to transfer the disputed domain name to the Complainant, but the Parties failed to reach a settlement.

In such cases Panels may issue a transfer decision without considering merits of a case (see e.g. sec. 4.10 of WIPO Overview 3.0 and "Dow Jones & Company, Inc. v. Stephen Ojo", Forum FA2412002129776).
However, the Panel has a discretion to consider the merits of the case, in particular "where the complainant has not agreed to accept such consent and has expressed a preference for a recorded decision" or "where the panel finds a broader interest in recording a substantive decision on the merits…" (see sec. 4.10 of WIPO Overview).
Therefore, it is up to a Panel to decide in each case.
This Panel, while appreciating that issuing a simple transfer decision can be preferable in the interests of timing, decided to proceed to a substantive decision on the merits for the following reasons:
i) The Complainant in its supplementary filing asked to add the second Respondent, Eric Zidonis, and
ii) The Complainant provided additional arguments on the Respondent's bad faith claiming the "Russian doll" scenario and asserted this as "aggravating factors in the finding of registration and use of the Disputed Domain Name in bad faith".
While the Complainant did not expressly ask for a decision on the merits, the Panel interprets the additional submission made by the Complainant, in particular, its additional arguments on the bad faith element, as its request to proceed to a decision on all three UDRP elements.
Besides, there may be a broader interest in a substantive decision given the allegations made by the Complainant, including use of the disputed domain name for impersonation and aggravating factors of bad faith, and the Panel will proceed accordingly.

Supplemental filing by the Complainant

The Complainant filed a supplementary submission as explained above. While the Panels usually discourage unsolicited supplemental filings, they may be allowed in some exceptional cases, see sec. 4.6 of WIPO Overview and see also sec. 0.5 of "UDRP Perspectives on Recent Jurisprudence", updated on January 15, 2025. This Panel agrees that circumstances must be exceptional, e.g. "a Complainant learning of new facts or evidence which it could not reasonably have anticipated in filing its Complaint".

Here the Panel accepts the Complainant's supplemental filing since it addresses the issue of Respondent's identity and Respondent's bad faith based on the information that became available only after "TrentaHost Inc" explained that the disputed domain name was registered by its client and the underlying registrant is not "TrentaHost Inc". This information was not available to

the Complainant on the date of filing of the complaint and on the date of filing of the amended complaint.
The Panel accepts the supplementary filing of the Complainant.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or confusingly similar

The Complainant provides evidence of the various “RUNE” trademark registrations.
The Panel agrees with WIPO Overview 3.0: “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” (see sec. 1.2.1).
Therefore, the Complainant proved its trademark rights.

The test for confusing similarity under the UDRP is relatively straightforward and typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.
The disputed domain name fully incorporates the “RUNE” mark of the Complainant plus the term “rift” that can be considered descriptive in relation to the Games of the Complainant.
As noted in WIPO Overview 3.0 and the Panel agrees with that view: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether **descriptive**, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element” (see sec. 1.8).
The “RUNE” mark of the Complainant is clearly recognizable within the disputed domain name and the addition of a descriptive term “rift” does not change confusing similarity.

The gTLD “.com” is to be disregarded under the confusing similarity test as it does nothing to eliminate confusion and is a technical requirement.
Therefore, the Panel finds that the first requirement of the Policy has been satisfied.

B. Rights or Legitimate Interests

With regard to the second UDRP element 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 and sec. 2.1 of WIPO Overview 3.0.

The disputed domain name was registered on November 09, 2023. On the date of this decision, it does not resolve to an active website. However, the Complainant provided evidence that the disputed domain name previously resolved to a website that offered to download and play one of the "RUNE" games. This is also confirmed by the Panel’s own independent research of “Web.Archive.org” conducted under rule 10 (a) of the UDRP Rules.

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 and **CAC Case No. 101284**: “A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable inferences may be drawn from the information provided by the complainant”.
The Complainant has made a prima facie case of Respondent’s lack of rights or legitimate interests.
The Respondent is not known by the disputed domain name and has no connection to the Complainant’s business, the disputed domain name or any name corresponding to the disputed domain name.

The Complainant has not granted any license or authorization to use its trademark registered many years prior to the registration of the disputed domain name to the Respondent and the Complainant is not doing any business with the Respondent.

The disputed domain name previously resolved to a website that offered to download and play the one of the "RUNE" games (according to the Complainant it was "Old School RuneScape") and on the date of this decision it does not resolve to an active webpage.
The Panel agrees that use of a domain name for illegal activity, including for copyright violation and for impersonation of the Complainant, can never confer rights or legitimate interests on a respondent (see sec. 2.13.1 of WIPO Overview).

The disputed domain name resolved to a website that contained the following text on the home page: “Download and start playing on RuneRift for free today. PLAY NOW”.

The Respondent’s use of the disputed domain name cannot be considered as “a legitimate noncommercial or fair use”, e.g. criticism site or a fan site, as there were no disclaimers, statements or any other information that would indicate that this was a fan site, or any other legitimate non-commercial website dedicated to the Games. Based on the provided evidence, it is likely that the disputed

domain name was used to capitalize on the Complainant's marks reputation and fame of the Complainant's "RUNE"-formative games.

The Panel finds that in the circumstances of the present dispute the Respondent does not have rights or legitimate interests in respect of the disputed domain name.

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 considered in deciding about the bad faith element.
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 sec. 3.1 of WIPO Overview 3.0). Targeting with an intent to take unfair advantage of the complainant's mark is important in establishing bad faith under the UDRP.

As noted in "UDRP Perspectives", updated on January 15, 2025, sec. 3.3: "Targeting can be established by either direct evidence (e.g. content of the website) or circumstantial evidence such as strength of the mark and nature of a disputed domain name (e.g. mark plus a term describing Complainant's business), timing of registration of a domain name and timing of trademark registration, geographic proximity of the parties".

The Panel finds that the disputed domain name was registered and is being used in bad faith based on the following:

1. The nature of the disputed domain name – confusingly similar to the Complainant's trademark, fully incorporating the mark plus a descriptive term also used in the Complainant's "Game Wiki", and the timing of the registration of the disputed domain name, many years after the Complainant obtained protection for its trademarks and its games became very popular. The Complainant provided evidence that its "RUNE" trademarks are highly distinctive in a market sense and can be considered as widely-known and its Games are very popular.
2. The Complainant provided evidence that the disputed domain name was previously used for a website that appeared to offer the game named "RuneRift" for download (the Complainant claims this was its "Old School RuneScape " game). Besides, an online store associated with the disputed domain name offered for sale items associated with the copyrighted elements of the Complainant's Games. While the UDRP does not deal with copyright or other IP disputes per se, and the Policy is designed to deal with a narrow class of disputes, registration and use of a domain name confusingly similar to the complainant's trademark, to take advantage of the Complainant's marks, demonstrates bad faith, see e.g. WIPO Overview 3.0, sec. 3.1.4 and **CAC Case No.106953** (<runewild.com>): "In the current case, the Complainant has been able to provide [evidence] which shows that the Respondent might be using some copyright elements which belong to Complainant. For instance, the Respondent is using promotional imagery relating to the Complainant's games as well as the use of ingame icons which are taken from Complainant's game". The Panel finds this evidence, at least, circumstantial, given the strength of the Complainant's marks, timing of the registration of the disputed domain name and the nature of use of the disputed domain name.
3. The fact that the Respondent employed the "Russian doll" scenario as explained in the "Procedural Factors" section of this decision (see also WIPO Overview 3.0, sec. 3.6) can be considered an additional factor of bad faith.
4. Based on the above, the Panel finds that Respondent's behavior falls within, at least, 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 his web site, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement. Besides, given the circumstances of this case, it appears that the Respondent targeted the Complainant with an attempt to take unfair advantage of the Complainant's mark and its reputation and this in itself demonstrates bad faith.

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. **rune-rift.com**: Transferred

PANELLISTS

Name	**Igor Motsnyi**

DATE OF PANEL DECISION 2025-04-07

Publish the Decision