Decision for dispute CAC-UDRP-107956

Case number	CAC-UDRP-107956
Time of filing	2025-09-19 07:48:34
Domain names	turmoilrsps.quest

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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

The Complainant is, amongst others, also the owner of the following trademark:

- RS, United Kingdom registration No. UK00905122916, registered on May 10, 2007 for services in class 41.

The Complainant is also the owner of several domain names incorporating the RS mark, such as <rsclassic.com>, which resolves to the website www.runescape.com.

FACTUAL BACKGROUND

The Complainant is renown for its massively multiplayer online role-playing games "RuneScape" and "OldSchool RuneScape". Together, these games average a total of more than 3 million users per month since October 2022. The "OldSchool RuneScape" game has been recognized by the Guiness World Records as the largest free-to-play multiplayer online role-playing game, with over 300 million accounts. The Complainant' s games have received public and critical praise, such as the EE Mobile Game of the Tear by the British Academy Games Awards in 2019.

The "RuneScape" game is commonly abbreviated to "RS", and the "Old School RuneScape" is frequently referred to as "OSRS". The Complainant owns registered trademark rights for RUNESCAPE, RS OLD SCHOOL, RUNE and OSRS.

The disputed domain name was registered on April 4, 2024, and resolves to a website promoting a videogame similar to the Complainant's "Old School RuneScape" videogame, using terms strictly connected with this videogame.

PARTIES CONTENTIONS

I. Complainant

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

In particular, the Complainant contends that the Complainant has acquired substantial goodwill in the terms "runescape" and "rs" and that these terms are recognized by the public as distinctive of the Complainant's services. Consequently, the Complainant's trademarks have achieved a high level or recognition worldwide. The disputed domain name incorporates the Complainant's trademark in its entirety as the distinctive and dominant element of the disputed domain name. The inclusion of the descriptive term "turmoil" and the letters "ps", within the disputed domain name, cannot prevent a lack of confusing similarity of the disputed domain name with the Complainant's earlier mark. The trademark RS is recognizable within the disputed domain name as it is a colloqualism used by fans of the Complainant's games to commonly refer to them. The letters "ps", instead, could refer to the wording "private server" and could describe a private server of the Complainant's games. As far as the other component of the disputed domain name is concerned, namely, the term "turmoil", it is a common term generally used in the Complainant's games. Therefore, also the addition of this second term should not prevent a finding of confusing similarity. An Internet user would associate "rs" and "turmoil" combined to indicate that the disputed domain name originates from the Complainant.

Lastly, with respect to the gTLD ".quest", the Complainant requests to omit it when assessing the confusing similarity of the disputed domain name with the Complainant's mark, as it is a mere technical requirement. In the alternative, the Complainant requests the Panelist to base its evaluation on how the disputed domain name is likely to be perceived globally. The term "quest" is in fact commonly used in multiplayer online role-playing games and in the Complainant's games.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant does not have and has never had authorisation to use the Complainant's mark in relation to online videogames, nor any other goods or services protected under the Complainant's marks. Upon information and belief, the Complainant submits that the Respondent has never been legitimately known as RS or RUNESCAPE at any point of time. The disputed domain name is not been used by the Respondent legitimately or for a noncommercial or fair use. The disputed domain name leads to a website which provides and promotes a pirated copy of the Complainant's game. Accordingly, the Respondent is using the disputed domain name illegitimately and for a competing activity, which does not amount to a fair use.

Finally, the Complainant's maintain that the disputed domain name was registered and is being used in bad faith. The Complainant's marks, including RS and RUNESCAPE enjoy a substantial reputation. Furthermore, it is clear that the Respondent was unequivocally aware of the RUNESCAPE and RS trademarks for the following reasons:

- the Respondent's website is promoting a pirated copy of the Old School RuneScape game made available for download, being the game a direct copy of Old School RuneScape;

- the background imaginary used on the Respondent's website's homepage is taken from the Complainant's games;

- the Respondent makes reference to the Complainant's mark OSRS and to elements which feature in the Complainant's games.

The Complainant submits that the only plausible explanation is that the Respondent's service impersonates the Complainant's games or otherwise intentionally uses the Complainant's copyrighted-protected works and adopts confusingly similar names and assets to divert traffic to the Respondent's website in order to promote a pirated version of the Complainant's game. Therefore, the Respondent registered the disputed domain name being fully aware of the Complainant's mark in order to take advantage of the attractive power of this mark to consumers of online video games. Accordingly, the Respondent's behaviour amounts to bad faith registration and use of the disputed domain name. In addition, the Respondent disrupts the Complainant's business by diverting potential consumers to the its website, which offers similar and competing goods and services.

The Complainant has a previous successful UDRP decision against the Respondent concerning the registration of a domain name comprising the Complainant's mark with additional elements. Accordingly, the Respondent has engaged in a pattern of conduct in registering the disputed domain name, which evidences bad faith.

Lastly, the Complainant points out that where a Respondent has obfuscated its identity to avoid service of a UDRP proceeding or legal action, this can be considered an additional element of bad faith.

II. Response

The Respondent did not file any Response.

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

Although the Respondent did not file a Response in this UDRP proceeding, on the day the relevant deadline it sent a communication to the CAC, informing that it had acted only as a reseller and is not the beneficial registrant of the disputed domain name. The named Respondent also stated that it had provided the full underlying registrant details privately to the Registrar of the disputed domain name for verification and updating of the relevant information on the related WhoIs. The Respondent, therefore, requested that the CAC treat the disclosed registrant as the proper Respondent in this UDRP dispute.

In reply, the Complainant submitted an unsolicited supplemental filing stating that the disputed domain name was locked and that consequently, the WhoIs details could not be updated. Consequently, the named Respondent must provide its disclosure to the CAC. Moreover, the Complainant asserts that the Respondent's disclosure was not made in a timely manner, as the named Respondent provided its information on the deadline for the Response expired and after the Panelist appointment. Consequently, the Complainant did not have an opportunity to amend its Complaint. The Complainant also requested that the CAC and the Panel name the named Respondent and the underlying beneficial registrant as co-respondents in this proceeding once the relevant data has been disclosed.

For the sake of clarity, the Panel notes that the case file contains no additional information regarding the beneficial registrant of the disputed domain name as neither the named Respondent nor the Registrar ever provided information in this respect.

PRINCIPAL REASONS FOR THE DECISION

I. Preliminary Issue

Identification of the Respondent

As mentioned in the Procedural Factors section, the named Respondent in this proceeding has informed the CAC that it is not the beneficial registrant of the disputed domain name, and that it has provided the Registrar with the relevant details of who is the alleged beneficial registrant. Accordingly, the named Respondent requests not to be treated as the Respondent in this UDRP proceeding.

The Panel notes that the case file does not contain any information about who should be the alleged beneficial registrant of the disputed domain name and therefore Respondent in this proceeding. According to Paragraph 1 of the UDRP Rules the respondent is “the holder of a domain name registration against which a complaint is initiated". In many cases however, the named respondent listed in the WhoIs register is not a person or corporation, but a “privacy” or “proxy” registration service. Regarding the latter, paragraph 4(b) of the UDRP Rules provides that: “Any updates to the Respondent’s data, such as through the result of a request by a privacy or proxy provider to reveal the underlying customer data, must be made before the two (2) business day period [of receiving the Provider's verification request] concludes or before the Registrar verifies the information requested and confirms the Lock to the UDRP Provider, whichever occurs first. Any modification(s) of the Respondent’s data following the two (2) business day period may be addressed by the Panel in its decision".

In this case, as the written communication from the named respondent was received after the verification of the respondent's data and after the panel's appointment, it is the panel's responsibility to determine whether it is appropriate to modify the Respondent's data as requested. The case file contains no other information concerning the beneficial registrant of the disputed domain name. The Respondent has informed the CAC that it disclosed this information to the Registrar. However, neither the CAC nor the Panel has received any information from the Registrar, and the WhoIs information for the disputed domain name does not provide any further details. Consequently, when rendering its decision, the Panel considers the named Respondent to be the sole disclosed respondent in this UDRP proceeding, as indicated by the relevant Registrar in its verification response. In light of the foregoing, the

Panel concludes that there is no reason not to consider the named respondent as the sole effective Respondent in this proceeding. Accordingly, the Panel rejects the Respondent's request and affirms that this proceeding should continue against it.

Supplemental filing by the Complainant

The Complainant filed a supplementary submission as explained above. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel. However, in specific cases, such as when exceptional circumstances occur, supplemental filings are allowed. In the instant case, the Panel notes that the supplemental file of the Complainant was in reply to a communication received from the named Respondent informing that it was not the underlying registrant of the disputed domain name. This information was not available to the Complainant on the date of filing of the Complaint or the amended Complaint. Accordingly, the Panel accepts the supplementary filing of the Complainant.

II. Confusing similarity

It is well accepted that the first element functions as a standing requirement, or It is well accepted that the first element serves as a standing requirement. The standing test for confusing similarity involves making a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. WIPO Overview 3.0, section 1.7.

The Complainant has shown that it owns earlier registered trademark rights over RS. The Panel finds that the disputed domain name is confusingly similar to the Complainant's mark for the following reasons:

- it fully incorporates the RS mark;

- it includes the word "turmoil", which is often used in the videogame industry;

- it includes the two letters "ps", which could be intended as the abbreviation for "private server", relating to videogames;

- it is registered under the generic top-level domain ".quest", which is commonly used in multiplayer online role-playing games, including the Complainant's.

While the content of a website associated with a domain name is usually disregarded by panels when assessing confusing similarity under the first element, in some instances, panels noted the contents of the website associated with a domain name to confirm confusing similarity, where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name. In this case, the Panel believes that the Respondent is indeed attempting to target the Complainant's mark through the disputed domain name, as explained below.

Accordingly, the Panel is satisfied that the first condition under the Policy is met.

III. Lack of rights or legitimate interests.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. WIPO Overview 3.0, section 2.1.

In this case, the Complainant maintains that the Respondent was not authorized to reflect its RS mark in the disputed domain name. The Complainant has no relationship with the Respondent and the Respondent does not appear to have been commonly known by the disputed domain name. The disputed domain name resolves to a website promoting a video game through images and wordings similar and identical to those used in the Complainant's videogames. The website also displays the Complainant's marks OSRS and RUNE as well as words such as "turmoil", "NEX", "Whisperer", "Mage's Arena", etc., which are used in connection with the Complainant's videogames. Such use of the disputed domain name cannot be considered legitimate or fair, as it suggests that through the disputed domain name the Respondent is attempting to impersonate the Complainant and exploit the goodwill associated with the Complainant, its videogames, trademarks and other distinctive features to attract Internet users to its website for the Respondent's illegitimate advantage.

In light of the foregoing, the Panel finds that the aforementioned circumstances are sufficient to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent had the opportunity to rebut the Complainant's arguments by responding to the Complaint. However, by failing to file a Response the Respondent waived its right to refute the Complainant's arguments.

Accordingly, the Complainant is satisfied that the second condition under the policy is met.

IV. Bad Faith

Pursuant to Paragraph 4(a)(iii) of the Policy, in order to succeed in a UDRP proceeding, the Complainant must prove, as a last

requirement, that the disputed domain name has been registered and is being used in bad faith. As far as registration in bad faith is concerned, in the absence of any contrary evidence from the Respondent and given the high number of subscribers to the Complainant's videogames, the Panel concludes that the Complainant's marks RUNESCAPE and OLD RUNESCAPE are likely to be well-known in the videogame field. By registering a disputed domain name comprising the Complainant's mark RS, a term often used by users and fans of the Complainant's videogames to commonly refer to them, as well as the term "turmoil" which is often used in videogames and the two letters "ps", which could be intended as an abbreviation for "private server", the Respondent is showing a great familiarity with the videogame field. The contents of the Respondent's website, which includes various references to the Complainant's videogames as mentioned above, further confirm that the Respondent registered the disputed domain name being fully aware of the Complainant's activity, the RuneScape and Old School RuneScape games, and related marks, including RS.

The registration of a disputed domain name being aware of third parties' conflicting marks, without rights or legitimate interests, amounts to registration in bad faith.

As far as use in bad faith is concerned, the Panel notes that the Respondent is taking unfair advantage of the Complainant's goodwill in relation to the RuneScape and Old School RuneScape video games and marks, as well as the RS mark, by impersonating the Complainant to offer a videogame that competes with the Complainant's videogames and which is promoted through the distinctive features of the Complainant's videogames. Accordingly, the Panel finds that the Respondent is using the disputed domain name to disrupt the business of a competitor, or to intentionally attempt to attract Internet users to its website, for commercial gain, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or any of its products or services.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **turmoilrsps.quest**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2025-11-03

Publish the Decision