



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

29 November 2024

Dear Mr [REDACTED]

Dispute between Jagex Ltd and [REDACTED] re: scape05.com / scape05.ru
Our Client: Jagex Limited
Our ref: 4001/31261

We are writing to you on behalf of our client, Jagex Limited. Please refer all future correspondence to us in relation to this matter.

As you will be aware, our client is a well-known video game developer and publisher, best known for RuneScape and Old School RuneScape (“**OSRS**”) (together, the “**Games**”), which are collectively recognised as the world’s largest free-to-play massively multiplayer online role-playing games (“**MMORPG**”).

Our client has become aware of your unauthorised private server copy of the following Games:

- scape05.com
- scape05.ru

(together the “**Infringing Websites**”)

This amounts to an infringement of our client’s intellectual property rights. For reasons explained further in this letter, our client will not tolerate this infringement, and has taken the decision to take necessary steps to ensure that it cannot continue.

Not responding to this letter will lead to an increase in the costs that our client will incur. We are required by Court rules to point this out, along with drawing your attention to the Practice Direction on Pre-Action Conduct, a copy of which can be found on the <https://www.justice.gov.uk/> website.





Our Client

The Games

RuneScape is a fantasy genre MMORPG launched in January 2001 which became immediately popular, growing dramatically with over 1 million accounts being registered within its first year. A pay-to-play version of RuneScape was released in February 2002 (to move away from support for the game being only by way of advertisements), gaining 5,000 subscribers in its first week. As the game's popularity grew, the game engine was rewritten and a new version (known as RuneScape 2) was officially released in March 2004, with the original version being renamed as RuneScape Classic. The third iteration of the game, sometimes referred to as RuneScape 3, was released in July 2013, and is the version currently maintained under the name 'RuneScape'.

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. OSRS is maintained alongside RuneScape, receiving a constant stream of new content, improvements and updates. The Games have a combined average of 3 million monthly active players, with over 300 million accounts created since their launch. Further, OSRS, has been recognised as the world's largest free MMORPG by The Guinness Book of World Records and awarded a BAFTA for Mobile Game of the Year.

Our client continues to invest in the marketing and advertising of the Games to broaden its player demographic and raise its profile among the existing RuneScape and OSRS community. It spent over £4 million in promoting the Games during the course of last year alone (2023). This has resulted in the Games having a widespread and positive reputation among the player community. The Games maintain an exceptionally high rating on the IOS app store, Metacritic and Steam.

Private Servers

Jagex has long recognised the demand amongst the community of OSRS fans for custom managed versions of the game in which players can create their own rules and modifications to the gameplay experience. In recent years, this has led to the growth of a large number of RuneScape private server sites ("RSPS") based on unauthorised and infringing copies of our client's original game. The Infringing Website is one such example of an RSPS.

In response to this demand, Jagex recently announced the upcoming launch of Old School RuneScape Community Servers – called Project Zanaris. Further details on Project Zanaris can be found on our client's website - <https://zanaris.runescape.com/>.

Project Zanaris has been developed with input from the OSRS community, and will provide access to servers where players are able to customise different elements of the game rules and experience, and then choose who can access their customised creation. This will be fully supported and authorised by Jagex, with a dedicated team supporting Project



Zanaris.

Our client has received overwhelmingly favourable support for its launch of Community Servers. In preparation for this launch, it is imperative that our client adopt a strict approach to the enforcement of its intellectual property rights, including RSPS sites (including the Infringing Website).

Our Client's rights

Our client owns a number of intellectual property rights in support of its Games. These include the following registered trade marks.

Country	Mark	Registration Number	Registration Date	Key Terms
UK	RUNESCAPE	UK00003571276	18 June 2021	Class 9: recorded computer game programs; recorded content; recorded content featuring games and gaming; Class 41: internet games.
UK	DARKSCAPE	UK00003727979	8 April 2022	Class 9: computer game software, recorded; computer games; computer gaming software; Class 41: internet games.
EU	RUNESCAPE	018433911	28 August 2021	Class 9: recorded computer game programs; recorded content; recorded content featuring games and gaming; Class 41: internet games.
EU	DARKSCAPE	018613417	18 May 2022	Class 9: computer game software, recorded; computer games; computer gaming software; Class 41: internet games.



(collectively the “Registered Marks”)

Please see enclosed examples of these rights in **Annex A**.

Further, our client owns copyright in the Games.

Your Activities

As explained above, it has come to our client’s attention that you are operating the Infringing Websites, which redirect to an unauthorised and infringing copy of OSRS. This is not acceptable to our client. Non-exhaustive examples of infringing copies from the Infringing Website now are prior to filing the UDRP complaint are set out at **Annex B**.

Specifically, prior to our client filing the UDRP complaint against **scape05.com**, the content resolved to a direct copy of the OSRS website. Since filing an amended version of the UDRP complaint, we note that the content now resolves to a pirated copy of OSRS: “as it was on June 27th, 2005”. Therefore prior to and after filing the UDRP complaint, you have used / are using copyright protected material of our client, including but not limited to a) a similar logo adapted from the official OSRS logo, b) use of the “Wandering Warrior” wallpaper owned by our client, and c) use of in-game icons and website template from OSRS.

Furthermore, our client will not tolerate use of the sign “SCAPE05” (the “Infringing Sign”). The identical / highly similar nature of your infringing sign is identical to that of our Registered Marks.

Therefore, the Infringing Websites amount to a violation of our client’s intellectual property rights, as explained further below.

Our client’s Claims

1) s.10(2) of the Trade Marks Act 1994 (the “Act”)

Under s.10(2)(a) and (b) of the Act, it is an act of infringement to use a sign which is identical or similar to a registered trade mark in the course of trade, in relation to goods or services which are identical or similar to those for which the trade mark is registered, such that there exists a likelihood of confusion on the part of the public.

On a global assessment, taking into account the identity and/or highly similar nature of both our client’s Registered Marks (RUNESCAPE and DARKSCAPE) and your Infringing Sign “SCAPE05” and the relevant goods, there is clearly a likelihood of confusion in this case. As a result, your use of such Infringing Sign in this manner is an act of infringement under s.10(2).

2) s.10(3) of the Trade Marks Act 1994

Use of the Infringing Sign also gives rise to a claim under s.10(3) of the Act in respect of





the Registered Marks. A person infringes a registered trade mark under s.10(3) of the Act if they use in the course of trade, in relation to any goods and services, a sign which is identical with or similar to the trade mark, where the trade mark has a reputation in the United Kingdom and the use of the sign, being without due cause, takes unfair advantage of, or is detrimental to, the distinctive character or repute of the trade mark.

As explained above, our client has established a significant reputation in respect of the Registered Marks in the UK.

In this instance, your use of a sign incorporating the same verbal elements to our client's Registered Marks on goods which are identical to those for which our client's Registered Marks are registered (and on which they are used), takes advantage of the significant reputation (and associated consumer attraction) of our client's Registered Marks. You are deliberately seeking to transfer the image and attributes of our client's marks to that of your own, in order to free ride on its marketing effort and try to secure a transfer of equivalence with our client's Registered Marks.

This abuse of the marketing function of our client's Registered Marks takes unfair advantage of the distinctive character or repute of our client's trade marks. That, in turn, will inevitably affect the economic behaviour of consumers, who will use your product as a result of their recognition of it as an equivalent to our client's products. This clearly amounts to trade mark infringement under s.10(3) of the Act.

3) s.16 of the Copyright, Designs and Patent Act 1988 (the "CDPA")

The Games are original and enjoy copyright protection under the CDPA, having been created using significant skill, labour and judgement on the part of our client's employees. Under Sections 16(1) and 16(2) of the CPDA, it is an act of infringement to make a copy of the whole, or a substantial part, of a work protected by copyright. It is evident that the Infringing Websites are a complete or substantial copy and includes numerous copies of the Games and as such, is in clear breach of section 16(2) CDPA.

Pursuant to Section 23 of the CPDA, is also an infringement to possess in the course of a business, exhibit in public in the course of a business which you either know, or have reason to believe, is an infringing copy of a copyright work, without authorisation from the copyright owner. The Infringing Websites clearly involve possession and exhibition in the course of a business of an article which you are aware is copied from our client's Games, contrary to Section 23.

These infringements are causing immediate and serious damage to our client for the reasons set out above.

4) UDRP against scape05.com

Our client has already taken action against **scape05.com** by filing a domain complaint to the UDRP panel at ICANN. Our client is able to take action on the following basis:





- a) identical or confusingly similar to its Registered Marks (RUNESCAPE and DARKSCAPE)
- b) you have no legitimate interest in mark - your use of an identical mark is with the clear intention of creating a pirate copy of the game, which in turn is misleading customers and diverting consumers to your website away from our client's own website; and
- c) you have registered the domain in bad faith – on the basis that you are using a confusingly similar mark, and that you are intentionally attempting to divert internet users to your website for financial gain through a pirate copy of the game.

Our client operates an active brand protection and enforcement programme and cannot tolerate activities which are liable to compromise the integrity of its Registered Designs, Registered Marks or Copyright within its images.

It is important that you understand that whilst our client has opted to file a UDRP complaint against **scape05.com** so far, our client's concerns extend far beyond just the domain names that are being used to host the Infringing Websites. For the reasons explained in this letter, our client objects to the Infringing Websites in their entirety.

Proposed Resolution

However, despite the legal position set out above our client remains commercially reasonable and would like to be pragmatic in settling this dispute. To settle this matter, our client requires you to agree to the undertakings set out below.

1. You will transfer the Infringing Websites to our client;
2. You will not (now or in the future) create a private server site using or otherwise based on or infringing our client's intellectual property rights in the Games, including (without limitation) the Registered Marks, unregistered marks, and copyright.

Next Steps

Please confirm that you agree to the above undertakings by **13 December 2024**, and we will put the terms into a formal set of undertakings for you to sign and return.

Finally, Jagex would like to make clear that it recognises your devotion to RuneScape and Old School RuneScape, which has led you to set up the RSPS. It is very much hoped that you will recognise that Project Zanaris is a significant and welcome development for the OSRS community, and that you will embrace the opportunity to shift your focus to establishing your own Community Server once fully launched.

This is a complex area of law, and we therefore suggest that you take specialist legal advice immediately upon receipt of this letter. Please provide your response by **13 December 2024**, failing which our client will have no alternative but to escalate this claim



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to litigation.

Jagex very much hopes that further steps will not prove necessary and looks forward to receiving your full co-operation.

Yours faithfully

A handwritten signature in black ink that reads "STOBBS" in a cursive, stylized font.

STOBBS

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