

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Host Master, Transure Enterprise Ltd
Case No. D2023-2310

1. The Parties

The Complainant is Scribd, Inc., United States of America (“United States”), represented by IPLA, United States.

The Respondent is Host Master, Transure Enterprise Ltd, United States.

2. The Domain Name and Registrar

The disputed domain name <scrind.com> (the “Disputed Domain Name”) is registered with Above.com Pty Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2023. On May 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 9, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Above.com Pty Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on June 15, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 7, 2023.

The Center appointed Lynda M. Braun as the sole panelist in this matter on August 14, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a United States corporation and online software and retail platform providing a wide variety of computer, electronic, and software related goods. Since 2007, the Complainant has served over 1,800,000 paying subscribers and has over 200,000,000 unique visitors per month on its website, "www.scribd.com". The Complainant is the 19th most downloaded application in Apple's App Store under Books, with over 24,000 reviews and a 4.6 rating. On Google Play, the Complainant's App has over 600,000 reviews and a 4.6 rating overall.

The Complainant owns 40 trademark registrations and three pending applications for the SCRIBD trademark in the United States and other jurisdictions worldwide for use in connection with a wide variety of computer, electronic, and software-related goods. The Complainant's United States trademark registrations include, but are not limited to, the following: SCRIBD, United States Trademark Registration No. 3,777,227, registered on April 20, 2010, in international classes 9, 35, 38, and 42; and SCRIBD, United States Trademark Registration No. 5,898,302, registered on October 29, 2019, in international classes 9, 35, and 42.

The foregoing trademarks will hereinafter collectively be referred to as the "SCRIBD Mark".

The Complainant has continuously used and owned its trademark registrations for the SCRIBD Mark in connection with its computer software goods and services since at least as early as 2009. The Complainant also owns and operates the <scribd.com> domain name, which was created on September 24, 2006 and resolves to its official website at "www.scribd.com".

The Disputed Domain Name was registered on February 25, 2023 and according to the Complainant's annexes to the Complaint which includes a screenshot for each redirection, the Disputed Domain Name redirected to a landing page blocked as unsafe, to a fake spyware alert that potentially exposes the user to malware, or to a pay-per-click advertising page with competing third-party websites.

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's SCRIBD Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith; and
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the SCRIBD Mark.

It is uncontroverted that the Complainant has established rights in the SCRIBD Mark based on its years of use as well as its numerous registered trademarks for the SCRIBD Mark in the United States and other jurisdictions worldwide. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[w]here 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”. Thus, the Panel finds that the Complainant satisfied the threshold requirement of having trademark rights in the SCRIBD Mark.

The Disputed Domain Name consists of the SCRIBD Mark almost in its entirety, although the <scrind.com> Disputed Domain Name is misspelled by replacing the letter “B” of the SCRIBD Mark with the letter “N” to create the Disputed Domain Name. Such a minor modification to a trademark is commonly referred to as “typosquatting” and seeks to wrongfully take advantage of errors by a user in typing a domain name into a web browser, especially where, as here, the two letters are adjacent to each other on a standard “qwerty” computer keyboard.

The misspelling of the Disputed Domain Name does not prevent a finding of confusing similarity to the SCRIBD Mark. See, e.g., [WIPO Overview 3.0](#), section 1.9 (“A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”); *LinkedIn Corporation v. Daphne Reynolds*, WIPO Case No. [D2015-1679](#) (minor alterations or substitution of a single letter cannot prevent a finding of confusing similarity).

The “SCRIND” portion of the Disputed Domain Name is followed by the generic Top-Level Domain (“gTLD”) “.com”. The addition of a gTLD such as “.com” in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant’s SCRIBD Mark.

Moreover, according to a screenshot provided by the Complainant, when typing in the Disputed Domain Name in the URL bar of the Microsoft Edge, it suggested that the user might have misspelled the Complainant’s domain name, which the Panel finds that serves to affirm a finding of confusing similarity in the circumstances of this “typosquatting” case.

Therefore, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant's SCRIBD Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

There is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the Disputed Domain Name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant's SCRIBD Mark. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name.

Further, the Complainant does not have any business relationship with the Respondent and based on the use made of the Disputed Domain Name to resolve to a pay-per-click advertising page with links to third-party websites that are owned by the Complainant's competitors, or to a landing page with malware, such use does not represent a legitimate or *bona fide* offering of goods and services. See [WIPO Overview 3.0](#), section 2.13.1; see also *Sunrise Senior Living, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1621](#) (where "the Disputed Domain Name redirects to a website ... which is blocked due to a security threat which possibly includes a threat of viruses and malware . . . panels have categorically held that the use of a domain name for illegal activity such as distributing malware can never confer rights or legitimate interests on a respondent").

In sum, the Panel finds that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that, based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy as set forth below.

First, based on the circumstances here, the Panel concludes that the Respondent registered and is using the Disputed Domain Name in bad faith in an attempt to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's SCRIBD Mark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name's resolving webpage. The Respondent's registration and use of the Disputed Domain Name indicate that such registration and use had been done for the specific purpose of trading on the name and reputation of the Complainant and its SCRIBD Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain").

Second, the Panel concludes that the Respondent knew about the Complainant's rights in the SCRIBD Mark when it registered the Disputed Domain Name, since it substituted the letter "B" in the SCRIBD Mark with the letter "N" in the Disputed Domain Name to misdirect users from the Complainant's website to the Respondent's website by capitalizing on typing mistakes made by users. See *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#). Thus, it appears that the Respondent was intentionally

capitalizing on potential customer confusion. Considering the foregoing and the use made of the Disputed Domain Name, it is implausible that the Respondent would have been unaware of the Complainant's SCRIBD Mark at the time the Respondent registered the Disputed Domain Name. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Further, the Respondent's Disputed Domain Name consists of the term "scrind," which has no dictionary meaning and its sole significance is that it is a common typo of the Complainant's SCRIBD Mark. When coupled with the fact that the Respondent is using the Disputed Domain Name to redirect users to competing third-party websites, a pay-per-click advertising page, or potential malware, it is clear the Respondent intended to profit from and/or harm the Complainant's well-known trademark and brand reputation when registering the Disputed Domain Name with the sole purpose of capitalizing on the user traffic intended for the Complainant's website. Such conduct is emblematic of the Respondent's bad faith.

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <scrind.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: August 28, 2023