

## **ADMINISTRATIVE PANEL DECISION**

Scribd, Inc. v. Domain Admin, Hush Whois Protection Ltd.  
Case No. D2024-0477

### **1. The Parties**

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

The Respondent is Domain Admin, Hush Whois Protection Ltd., Seychelles.

### **2. The Domain Name and Registrar**

The disputed domain name <scribd-downloader.com> (the “Domain Name”) is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2024. On February 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 5, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which partly differed from the named Respondent (Hush Whois Protection Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 2024, 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 February 10, 2024.

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 February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Gregor Vos as the sole panelist in this matter on March 22, 2024. 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 was founded in 2007 and is an online software and retail platform offering computer, electronic and software related goods. The Complainant has served over 1,800,000 paying subscribers and currently has over 200,000,000 unique visitors per month on its website at the domain name <scribd.com>.

The Complainant is the owner of inter alia the following trademark registration (hereinafter referred to as: the "Trademark"):

- US Trademark registration No. 3777227 for SCRIBD registered on April 20, 2010.

The Domain Name was registered on March 19, 2014. At the time of filing of the Complaint, the Domain Name resolved to a pay-per-click ("PPC") website displaying links related to the Complainant's services.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that the Domain Name is identical or confusingly similar to the Trademark of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to its Trademark that enjoys a reputation. The Domain Name incorporates the Trademark in its entirety with the mere addition of the generic Top-Level Domain ("gTLD") ".com", a hyphen and the English term "downloader", which does not prevent a likelihood of confusion.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received any authorization from the Complainant to use the Trademark, has no prior rights to the Domain Name and is not commonly known by the Domain Name. Also, at the time of filing the Complaint the Domain Name resolved to a website on which PPC links advertising products competitive with the Complainant's goods and services were displayed, which does not constitute legitimate commercial or noncommercial use of the Domain Name.

Finally, according to the Complainant, the Respondent has registered and is using the Domain Name in bad faith. The Respondent is using the Domain Name for commercial gain by redirecting Internet users to a webpage on which PPC links are shown.

##### **B. Respondent**

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

## 6. Discussion and Findings

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

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

Only if all three elements have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. The Panel will deal with each of the requirements in turn.

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trademark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "downloader" and the added hyphen, may bear on assessment of the second and third elements, the Panel finds the addition of such term and sign does not prevent a finding of confusing similarity between the Domain Name and the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise. The use of a domain name to host a parked page comprising PPC links does not represent a

bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Trademark is registered by the Complainant and has been used for many years. The Complainant's rights to the Trademark predate the registration date of the Domain Name. In light of the reputation of the Complainant and its Trademark, the Panel finds that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademark under which the Complainant is doing business. The reputation of the Trademark of the Complainant has been confirmed by earlier UDRP panels (see e.g. *Scribd, Inc. v. Private Whois, Global Domain Privacy Services Inc / Robert Brink*, WIPO Case No. [D2022-2662](#)).

Further, the Panel has found that the Respondent lacks any rights to or legitimate interests in the Domain Name and finds that the Respondent is taking unfair advantage of the Domain Name by diverting Internet users to a website that includes PPC links of a commercial nature that compete with the Complainant's activities. Therefore, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement (see, e.g., *"Dr. Martens" International Trading GmbH / "Dr. Maertens" Marketing GmbH v. Joan Mitchell*, WIPO Case No. [D2018-0226](#)).

### **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 Domain Name <scribd-downloader.com> be transferred to the Complainant.

/Gregor Vos/

**Gregor Vos**

Sole Panelist

Date: April 8, 2024