

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. yaseen ramzan, modroute
Case No. D2024-2514

1. The Parties

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

The Respondent is yaseen ramzan, modroute, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <scribdownloader.net> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2024. On June 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 20, 2024, 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 (GoDaddy.com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 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 June 21, 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 June 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2024. The Respondent sent an email communication to the Center on July 3, 2024. The Respondent did not file any formal Response.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on July 25, 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 is a well-established digital content subscription service provider incorporated in Delaware. The Complainant operates several online services providing access to a large collection of ebooks, audiobooks, magazines, podcasts, and other written and spoken content, including its well-known Everand, Scribd and SlideShare platforms; and owns various word and figurative trademarks for or containing the term "SCRIBD" ("Complainant's Trademark").

The relevant trademark registrations include, inter alia, International Trademark Registration No. 1491187 for SCRIBD registered on August 6, 2019 in Classes 9, 35, and 42 designating, inter alia, Switzerland, the United Kingdom, and Canada; International Trademark Registration No. 1422028 for SCRIBD registered on July 11, 2018 in Classes 9, 35, and 42 designating, inter alia, Australia and the European Union; US Trademark Registration No. 5898302 for SCRIBD registered on October 29, 2019, in Classes 9, 35, and 42; and US Trademark Registration No. 3777227 registered on April 20, 2010, in Classes 9, 35, 38, and 42.

The Complainant's Trademark is fully incorporated in the Complainant's domain name <scribd.com> ("Complainant's Domain Name") registered on September 24, 2006, and resolves to the Complainant's website ("Complainant's Website").

The Disputed Domain Name was registered by the Respondent on November 7, 2022. At the time of rendering this decision, the Disputed Domain Name resolved to a website with the heading "Scribd Downloader" (the "Respondent's Website"), which claims to offer a tool to Internet users to download documents, magazines, articles, and audiobooks from the Complainant's Website for free in various formats instantly and without requiring registration ("Scribd Downloader"). The Respondent's Website further explicitly discusses the use of the Scribd Downloader to bypass restrictions imposed by the Complainant's Website, such as requiring Internet users to have an account, pay subscription fees, or upload documents, on the downloading of content from the Complainant's services. The "About us" page of the Respondent's Website further specifies that it is "one of the oldest websites created to download documents from Scribd.com (i.e. the Complainant's Website) for free". The Respondent's website added a disclaimer on its homepage claiming "Downloading Books from Scribd for free may be prohibited. This tool is meant for educational purposes only. Please support the authors by buying their titles."

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 Disputed Domain Name.

Notably, the Complainant contends that:

(a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark. The Disputed Domain Name incorporates the Complainant's Trademark in its entirety. Moreover, the addition of the descriptive term "downloader" to the Disputed Domain Name does not distinguish it from the Complainant's Trademark, rather instead creating a stronger tie to the Complainant's Trademark and enhancing the potential for confusion as the term is suggestive of and commonly associated with the Complainant's goods and services. As the Disputed Domain Name is essentially identical to the Complainant's Trademark, Internet users will reasonably and mistakenly believe that the Respondent's Website originates from, is associated with, or is sponsored by the Complainant.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant's registration and use of the Complainant's Trademark significantly predates the registration of the Disputed Domain Name. The Disputed Domain Name was registered on November 7, 2022, which is well after the Complainant's first use of the Complainant's Trademark from at least March 6, 2007, the first filing date of the Complainant's Trademark in the US on August 3, 2009, and subsequent registration date on April 20, 2010, and the registration of the Complainant's Domain Name on September 24, 2006. There is no evidence that the Respondent has any trademark, domain name, or other rights in relation to the Complainant's Trademark, nor has the Complainant ever authorised the Respondent to use the Complainant's Trademark in connection with any goods or services. There is also no evidence to suggest that the Respondent is commonly known by the Disputed Domain Name.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Disputed Domain Name wholly incorporates the Complainant's Trademark and directly references the Complainant's goods and services without any authorisation from the Complainant, causing confusion to Internet users as to the source of the Respondent's Website. Moreover, the Respondent's Website invites Internet users to download the Complainant's contents without proper compensation. The Respondent is therefore using the Complainant's Trademark and the Disputed Domain Name to redirect Internet traffic away from the Complainant, attempting to attract Internet users to the Respondent's Website for commercial gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's Website.

B. Respondent

In the Respondent's email of July 3, 2024, the Respondent stated that the Disputed Domain Name and the Scribd Downloader on the Respondent's Website were no longer functional. However, the Respondent did not address, nor did they reply to the Complainant's contentions. At the time of the rendering of this decision, while the Disputed Domain Name continues to resolve to the Respondent's Website, the Scribd Downloader on the site no longer appears to be available.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 has been registered and is being used by the Respondent in bad faith.

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 Disputed 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 the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms, in this case “downloader”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Moreover, the addition of the term “downloader” is likely to cause confusion to Internet users as to the source of the Disputed Domain Name given that the term may be a reference to the Complainant's digital content subscription services (see *BlackRock, Inc. v. Contactprivacy.com / TSP Pilot, LLC*, WIPO Case No. [D2010-1219](#)). Furthermore, it is well established that the generic Top-Level Domain (“gTLD”), “.net” in this case, may be disregarded for the purpose of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1.

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 Disputed 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 Disputed Domain Name such as those enumerated in the Policy or otherwise.

Drawing from the Respondent's failure to reply to the Complainant's contentions, the Panel considers that the Respondent's email dated July 3, 2024 does not satisfactorily address the Complainant's arguments under this element of the Policy.

The Panel notes that the sole intended use of the Respondent's Website is to download content from the Complainant's Website. The Respondent would therefore likely not have adopted the Complainant's Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant. Thus, the Disputed Domain Name carries a high risk of implied affiliation as it effectively suggests sponsorship or endorsement of the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name. Moreover, the Respondent's inclusion of the term “downloader” in the Disputed Domain Name, as well as their purported provision of the Scribd Downloader on the Respondent's Website (unavailable at the time of rendering of this decision) allowing Internet users to download the Complainant's digital content without authorization from, and fees made to, the Complainant, clearly indicates that the Respondent targeted the Complainant in registering the Disputed Domain Name. This conduct cannot be considered as use of the Disputed Domain Name in connection with a bona fide offering of goods or services or be regarded as legitimate noncommercial or fair use. [WIPO Overview 3.0](#), section 2.5.1; see also *Shutterstock, Inc. v. Domain Administrator, See PrivacyGuardian.org / Samir Basmir*, WIPO Case No. [D2020-2565](#).

Panels have held that the use of a domain name for illegal activity, such as in this case the circumvention of the Complainant's technological copyright protection measures can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Panel notes that it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it has incorporated the Complainant's Trademark in its entirety. The Respondent intentionally registered the Disputed Domain Name to attract Internet users to the Respondent's Website for commercial gain by creating a likelihood of confusion with the Complainant's Trademark. See section 3.1 of the [WIPO Overview 3.0](#). Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

The Panel notes that the Complainant's Trademark was registered and was put into use well before the Respondent registered the Disputed Domain Name. Given the well-known nature of the Complainant's brand, evidenced by the various trademark registrations for the Complainant's Trademark across the globe; the unauthorised use of the Complainant's Trademark in the Disputed Domain Name; and the fact that the Respondent's Website explicitly identifies the Complainant's Website, there is no doubt that the Respondent was fully aware of the Complainant and the Complainant's Trademark when it registered the Disputed Domain Name. Panels have previously held that where a respondent's website's explicit intended use is to download content from a complainant's website and circumvent subscription fees, a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the website is created for the respondent's commercial gain (see *Scribd, Inc. v. Private Whois, Global Domain Privacy Services Inc / Robert Brink*, WIPO Case No. [D2022-2662](#)). As such, the Respondent's use of the Complainant's Trademark in the Disputed Domain Name, in conjunction with the content of the Respondent's Website, clearly evidences bad faith on the part of the Respondent in the registration and use of the Disputed Domain Name to redirect Internet traffic away from the Complainant's Website for commercial gain. It is therefore implausible that there could be any legitimate reason for the Respondent's registration of the Disputed Domain Name (see *Champion Broadcasting System, Inc. v. Nokia Internet Technologies*, WIPO Case No. [D2006-0128](#)).

Although the Respondent's Website contains a disclaimer stating that “[the Scribd Downloader] tool is meant for educational purposes only”, where the overall circumstances of a case points to the respondent's bad faith, as is the case here, the mere existence of a disclaimer cannot cure such bad faith and constitutes an admission by the Respondent that Internet users may be confused. [WIPO Overview 3.0](#), section 3.7.

Panels have held that the use of a domain name for illegal activity, such as in this case the circumvention of the Complainant's technological copyright protection measures constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

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 <scribdownloader.net> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: August 8, 2024