

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Nguyen Trung Toan
Case No. D2024-2652

1. The Parties

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

The Respondent is Nguyen Trung Toan, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <scribdd.com> is registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 28, 2024. On July 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 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 (Cosmotown, Inc. (Registrar)) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 3, 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 July 5, 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 July 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 6, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on August 12, 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 United States corporation, which primarily provides for a digital library and e-book subscription service that offers access to a large collection of books, audiobooks, magazines, and particularly documents. It operates on a fee-based subscription model, allowing users to read and listen to provided content (Annex 5 to the Complaint). It is widely known with almost 2 million paying subscribers (Annex 6 to the Complaint).

The Complainant owns a number of trademark registrations for SCRIBD such as the United States Trademark Registration No. 5898302, registered on October 29, 2019, and the International Trademark Registration No. 1422028, registered on July 11, 2018, designating among others the European Union, both for SCRIBD and covering protection for various goods and services as covered in class 9, 35, and 42 (Annex 4 to the Complaint).

Since 2006, the Complainant further owns and operates its official website at “www.scribd.com”.

The Respondent is reportedly located in Viet Nam.

The disputed domain name was registered on January 29, 2024.

According to the case record, the disputed domain name resolved to a website prominently using the SCRIBD trademark of the Complainant and allegedly allowing Internet users the ability to download content from the Complainant's platform without subscribing (Annex 7 to the Complaint).

At the date of this Decision, the disputed domain name does not resolve to an active website anymore.

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.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark 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 in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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 3.0](#), section 1.7.

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

The entirety of the SCRIBD mark 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 or letters, here the additional letter "d", may bear on assessment of the second and third elements, the Panel finds the addition of the letter "d", which apparently constitutes an obvious misspelling of the Complainant's SCRIBD trademark, does not prevent a finding of confusing similarity between the disputed domain name and the mark 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 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.

Even more, the Panel particularly notes the nature of the disputed domain name, comprising the Complainant's SCRIBD mark in its entirety, and the content and design of the associated website, featuring the Complainant's SCRIBD trademark and explicitly targeting the Complainant's services. In view of the Panel, this clearly indicates the Respondent's awareness of the Complainant and its SCRIBD trademark and its intent to take unfair advantage of it, which does not support a finding of any rights or legitimate interests.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have had the Complainant and its SCRIBD trademark in mind when registering the disputed domain name. Noting the typosquatting nature of the disputed domain name, fully comprising the Complainant's SCRIBD trademark, it is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target and mislead third parties who are searching for the Complainant and its provided services. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent uses the disputed domain name in order to generate traffic to its own website by deliberately misleading third parties in a false belief that the associated website is either operated or at least authorized by the Complainant. The use of the Complainant's SCRIBD mark, the offering of an ability to download content from the Complainant's platform without subscribing, and the nature of the disputed domain name is, in view of the Panel, sufficient evidence that the Respondent intentionally tries to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and its SCRIBD trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

Also, the Panel accepts the failure of the Respondent to submit a response to the Complainant's contentions as an additional support for its finding of bad faith use.

The fact that the disputed domain name currently does no longer resolve to an active website does not prevent a finding of bad faith.

Consequently, the Panel is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

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 <scribdd.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: August 26, 2024