

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Mike Milion
Case No. D2024-4079

1. The Parties

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

The Respondent is Mike Milion, Romania.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2024. On October 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 as provided in Annex 1 to the Complaint (REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 8, 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 October 9, 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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 1, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on November 5, 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 using the trademark SCRIBD to offer subscriptions to digital content including e-books, audiobooks, magazines, podcasts, and documents via the website at the domain name <scribd.com>, registered on September 24, 2006. The Complainant alleges – and the Respondent has not denied – that since 2007, it has served over 1,950,000 paying subscribers and has over 200,000,000 unique visitors per month on “www.scribd.com”. In Apple’s App Store, the Complainant’s Scribd App has a 3.0 rating overall, and on Google Play, the Complainant’s Scribd App has over one million downloads and a 3.5 rating overall.

The Complainant is the owner of several trademark registrations for SCRIBD, including the following, as per trademark registration details submitted as annex 4 to the Complaint:

- United States trademark registration No. 5898302 for SCRIBD (word mark), filed on July 3, 2018, and registered on October 29, 2019, claiming first use in October 2013, in international classes 9, 35, and 42;
- United States trademark registration No. 3777227 for SCRIBD (word mark), filed on August 3, 2009, and registered on April 20, 2010, claiming first use on March 6, 2007, in international classes 9, 35, 38, and 42; and
- International trademark registration No. 1422028 for SCRIBD (word mark), registered on July 11, 2018, in classes 9, 35, and 42, designating, amongst others, European Union.

The disputed domain name was registered on November 5, 2023, and directs to a website that purports to enable users to download content from the Complainant’s platform at “www.scribd.com” without subscribing 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 disputed domain name.

The Complainant points out that the disputed domain name is confusingly similar to its registered trademark SCRIBD as it reproduces the trademark in its entirety, with the mere addition of the descriptive terms “download” and “free” and the generic Top Level Domain (“gTLD”) “.com”.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that: i) it is not aware of any trademark rights or other rights that the Respondent may have relating to the SCRIBD mark, nor has the Complainant ever authorized the Respondent to use its SCRIBD mark in connection with any goods or services, as also confirmed by the disclaimer published in the footer of the website to which the disputed domain name resolves that reads, “Downloadfreescrbd.com is not affiliated with any websites (such as scribd.com)”; ii) nothing in Whois information of the disputed domain name or any other publicly available source suggests the Respondent is commonly known by the disputed domain name; iii) the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use since the Respondent is using the disputed domain name to provide a free access to copyrighted works that would only be accessible in full by paying for the Complainant’s services.

The Complainant contends that the disputed domain name was registered in bad faith as the Respondent registered it well after the Complainant first developed and launched its website “www.scribd.com” in 2006 and filed its first trademark application for the trademark SCRIBD in the United States, claiming first use in March 2007. The Complainant further states that the SCRIBD mark is a coined term that has no dictionary meaning and, therefore, it is inconceivable that the Respondent did not know of the Complainant’s prior rights.

In view of the above and considering the Respondent’s use of the disputed domain name to offer users the ability to download content from the Complainant’s website avoiding signing up for the Complainant’s services, the Complainant submits that the Respondent intended to profit from and/or harm the Complainant’s well-known mark and brand reputation with the sole purpose of capitalizing on the user traffic intended for the Complainant’s website.

The Complainant concludes that the Respondent has registered and used the disputed domain name in bad faith to intentionally attempt to extort money or attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s SCRIBD mark as to the source, sponsorship, affiliation, or endorsement of the website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for SCRIBD.

The entirety of the 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, here, “download” and “free”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Moreover, the gTLD in a domain name, such as “.com” here, is viewed as a standard registration requirement and as such can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademark.

Moreover, there is no element from which the Panel could infer a Respondent’s right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

As highlighted above, the disputed domain name directs to a website that purports to enable users to download content from the Complainant’s website without subscribing to the Complainant’s services. The website contains a disclaimer reading “DownloadFreeScribd Is Not Affiliated With Any Websites (Such As Scribd.Com). We Do Not Store Any Of Files On Our Servers, This Is For Educational Purposes Only! You Can Download Free Public Access Document Only. We Highly Recommend Buying The Legal Account Of Scribd From The Official Website”. Such a disclaimer is, however, displayed at the bottom of the website and cannot be seen by Internet users without scrolling down the webpage. Moreover, according to the website, it appears to allow the download of documents from the Complainant’s website without restrictions or limitations.

The Panel finds that the Respondent’s use does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name without intention to misleadingly divert consumers or to tarnish the Complainant’s trademark.

Furthermore, panels have held that the use of a domain name for illegitimate activity, here, claimed circumventing of the Complainant’s technical measures to allow users to download content from the Complainant’s platform without subscribing, effectively allowing for the free download of documents without restrictions or limitations, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Therefore, the Panel finds the second element of the Policy has been established as well.

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 finds that, in light of the prior registration and use of the Complainant's trademark SCRIBD in connection with the Complainant's document sharing service available at "www.scribd.com", the widely known character of the trademark and the circumstance that SCRIBD is a coined term with no dictionary meaning, the Respondent should have been aware of the Complainant's trademark at the time of registration of the disputed domain name.

Moreover, considering the composition of the disputed domain name and the use of it made by the Respondent in connection with a website purporting to enable users to download content taken from the Complainant's platform at "www.scribd.com" without restrictions or limitations, making explicit reference to the Complainant's website, it is clear that the Respondent was aware of the SCRIBD mark and intended to target the Complainant and its trademark.

In view of the use of the disputed domain name to divert users to the website described above, the Panel finds that the Respondent has intentionally attempted to attract Internet users to such website for commercial gain, by creating a likelihood of confusion with the trademark SCRIBD as to the source, sponsorship, affiliation or endorsement of the website according to paragraph 4(b)(iv) of the Policy. Considering the overall circumstances of this case point to the Respondent's bad faith, the Panel also finds that the mere existence of the disclaimer at the bottom of the website does not change the Panel's finding of the Respondent's bad faith.

Therefore, the Panel finds that the Complainant has also 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 <downloadfreescrbd.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: November 19, 2024