

## ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Samuel Levine  
Case No. DAI2024-0036

### 1. The Parties

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

Respondent is Samuel Levine, United States, represented by Coates IP LLP, United States.

### 2. The Domain Name and Registrar

The disputed domain name <scribd.ai> (hereinafter the “Disputed Domain Name”) is registered with 1API GmbH (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 30, 2024. On May 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 3, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent (Domains By Proxy, LLC) is listed as the registrant and providing the contact details. In response to a notification by the Center that the Complaint was administratively deficient, Complainant filed an amended Complaint on May 10, 2024.

The Center verified that the Complaint together with the amended 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 Respondent of the Complaint, and the proceedings commenced on May 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 17, 2024.

On June 21, 2024, the privacy service provider disclosed that Samuel Levine was the underlying registrant of the Disputed Domain Name and supplied contact details for him. On June 24, 2024, the Center sent an email to Complainant providing the underlying registrant’s information, and inviting Complainant to submit an amendment. Complainant submitted an amendment to the Complaint on June 25, 2024. The Center sent

an email to Respondent, and the due date for Response was extended to July 5, 2024. Respondent did not submit any response.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on July 9, 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.

On July 13, 2024, Respondent sent an email to the Center. On July 15, 2024, Complainant requested that the proceedings be suspended to consider a settlement agreement. The Panel granted that request and issued an Administrative Panel Procedural Order No. 1 ("Order No.1") on July 16, 2024.

On July 30, 2024, the Complainant requested reinstatement of the proceeding. On July 31, 2024, the Panel, at Complainant's request, issued an Order No. 2 reinstating proceedings.

On August 1, 2024, Respondent sent an email the Center requesting that he be allowed to file a late response based on exceptional circumstances. On August 5, 2024, the Panel directed Respondent to submit the proposed response together with an explanation of the claimed exceptional circumstances, which Respondent did on August 9, 2024. Complainant sent an email to the Center on August 10, 2024 requesting permission to file a reply if the Panel allowed Respondent's late response.

The Panel grants Respondent's request to file a late response based on Respondent representation that medical problems delayed his response and, more importunately, because Respondent contacted Complainant within a short time after receiving actual notice and offered to transfer to Disputed Domain Name without compensation. Although Complainant did not accept this offer, it was reasonable for Respondent to forego filing a response while this offer was pending. Respondent then requested permission to submit a response within one day of Complainant's request that the proceedings recommence.

The Panel denies Complainant's request to file a reply. As explained below, the Panel finds that Complainant has met its burden under the Policy.

#### **4. Factual Background**

Complainant uses its trademark SCRIBD (hereinafter the "Mark") to sell subscriptions to digital content including e-books, audiobooks, newspapers, magazines, and podcasts via its website associated with its domain name <scribd.com>, which Complainant registered in 2006. Since 2007, Complainant alleges, and Respondent does not deny, that Complainant has served over 1,800,000 paying subscribers and has over 200,000,000 unique visitors per month to its website. In Apple's App Store, Complainant's SCRIBD app ranks 169th in the educational apps category. On Google Play, Complainant's self-titled app has over 1 million downloads.

Complainant owns many trademark registrations worldwide for the Mark, including:

- United States Registration No. 3777227 (registered on April 20, 2010); and
- United States Registration No. 5898302 (registered on October 29, 2019).

The Disputed Domain Name, which was registered on February 17, 2023, displays pay-per-click ("PPC") links such as "Help Me Write My Book", "Who Can Help Me Write a Book", and "Write and Publish a Book". Complainant alleges that these links lead to ghost-writing websites and publishing platforms.

## 5. Parties' Contentions

### A. Complainant

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

### B. Respondent

Respondent asserts that he selected the Disputed Domain Name because he intended to develop a software application that would help students transcribe school lectures. Although he has not developed this application, he submits an undated document that allegedly reflects an estimate of the cost and time required to develop the application.

Respondent contends that his PPC links are based on the dictionary meaning of the Latin word "scrib", which means "write".

Respondent says that he was unaware of Complainant before receiving notice of these proceedings.

Respondent contends that Complainant's rejection of its offer to transfer the Disputed Domain Name is an admission that "Complainant believes there is a possibility that it can lose this proceeding. This alone should establish that Complainant believes there is a legitimate interest for the Respondent to have the Disputed Domain Name".

## 6. Discussion and Findings

### 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 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.

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 Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent may demonstrate rights or legitimate interests in a Disputed Domain Name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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.

On the webpage associated with the Disputed Domain Name, Respondent displays PPC links to third party websites that offer services that Internet users may mistakenly believe are related to Complainant. Complainant alleges, and Respondent does not deny, that these links lead to ghost-writing websites and publishing platforms.

The Panel acknowledges that PPC links could be bona fide if they do not exploit the trademark significance of Complainant's Mark. However, the Panel rejects Respondent's contention that he is merely exploiting the dictionary meaning of "scrib", which is a Latin root for "writing". The simple answer is that Respondent does not use "scrib" as its domain name. Instead, he uses "scribd" with a "d" at the end, which is identical to Complainant's Mark, to offer PPC links relating to the same area of activity as Complainant and its Mark. "Scribd" is not a dictionary word in English or Latin. Consequently, Respondent has no basis for relying on the well-recognized right to exploit the non-trademark dictionary meaning of domain names in these circumstances.

Respondent also contends that many registered trademarks begin with "scrib", pointing to United States Registrations for INK SCRIBED, SCRIBED OAK, and SCRIB3D. Based on this evidence, Respondent appears to argue that, because Complainant coexists with such allegedly similar trademarks, Complainant's trademark rights are narrow and do not extend to Respondent's use. The Panel rejects this contention. Even if one assumes<sup>1</sup> that Complainant's Mark has a narrow scope of protection because it coexists with similar trademarks, the Disputed Domain Name is identical to Complainant's Mark, which renders irrelevant Respondent's effort to limit the scope of Complainant's Mark.

Respondent says he chose the Disputed Domain Name to use as platform for a software application to transcribe videos of school lectures. However, Respondent has not used the Disputed Domain Name for this purpose, but instead has used the Disputed Domain Name only for PPC links. Respondent offers as evidence a one page "outline of costs and items necessary to bring its software solution to fruition". There is no evidence about who created this document, or when it was created. And there is no indication that any of these expenses were incurred. This evidence is not sufficient to prove "demonstrable preparations to use" the Disputed Domain Name in connection with a bona fide offering of goods or services. Policy paragraph 4(c)(i). "If not independently verifiable by the panel, claimed examples of use or demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services cannot be merely self-serving but should be inherently credible and supported by relevant pre-complaint evidence." [WIPO Overview 3.0](#), section 2.2. Moreover, the Panel notes that the Disputed Domain Name carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel rejects the contention that it should draw an adverse inference from Complainant's rejection of the offer to transfer the Disputed Domain Name. The Panel does not comprehend any way in which declining the voluntary transfer shows that Complainant "believes there is a possibility that it can lose this proceeding" or supports an inference that "Complainant believes there is a legitimate interest for the Respondent to have the Disputed Domain Name".

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

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<sup>1</sup> The Panel expressly disclaims any ruling that these marks are similar to the Mark.

### **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.

The Panel finds that Respondent registered the Disputed Domain Name in bad faith. Respondent asserts that he was not aware of Complainant or its trademark rights. For two reasons, the Panel finds to the contrary based on the balance of probabilities.

First, Complainant's mark is distinctive. The term "scribd" has no dictionary or descriptive meaning that would credibly explain why Respondent selected the term for the Disputed Domain Name. For the reasons set out above, the Panel rejects as not credible Respondent's assertion that he meant to exploit the Latin root "scrib". Respondent's explanation does not clearly explain the addition of the "d", which is the feature of the Mark that most contributes to its distinctiveness. The Panel notes a brief reference in the Response to "db" being a common acronym for "database", however the Disputed Domain Name did not add "db" to the root "scrib", but rather only "d". The Panel finds that the most likely explanation for Respondent's selection of the "scribd" was an awareness Complainant.

The evidence also supports finding that Complainant is sufficiently well known that Respondent was likely aware of Complainant and its rights when it registered the Disputed Domain Name. Respondent asserts that Complainant did not allege that it was well known, but this ignores the substantial evidence that Complainant offered to quantify its market exposure and the Respondent's stated intention to enter a field at least somewhat related to the Complainant's area of activity. Respondent did not make any effort to refute this evidence.

The Panel also finds that Respondent used the Disputed Domain Name in bad faith. Respondent includes PPC links that lead to websites that purport to assist users write books or create other digital content. Internet users may mistakenly believe are related to Complainant. Exploiting this confusion for commercial purposes is bad faith use. Policy paragraph 4(b)(iv).

The Panel finds that 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 <scribd.ai> be transferred to Complainant.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: August 14, 2024