

## ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Sudheesh R  
Case No. D2024-0270

### 1. The Parties

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

Respondent is Sudheesh R, India.

### 2. The Domain Name and Registrar

The disputed domain name <dlscribd.net> (the “Domain Name”) is registered with Spaceship, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 24, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Spaceship, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on January 24, 2024, providing the registrant and contact information disclosed by the Registrar, and requiring Complainant to submit an amendment to the Complaint. Respondent sent an email to the Center on January 24, 2024. Complainant filed an amended Complaint on January 27, 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 January 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2024. Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on February 20, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on February 23, 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**

Complainant is active in computer, electronic and software related goods and services and maintains the Scribd platform which is a digital documents library. Complainant owns trademark registrations for SCRIBD worldwide, such as the United States trademark registration No. 3777227 SCRIBD (word), filed on August 3, 2009, and registered on April 20, 2010 for goods and services in international classes 9, 35, 38, and 42.

Complainant is also the owner of the domain name <scribd.com>, registered on September 24, 2006, where Complainant maintains its official website.

Per Complainant, since 2007, Complainant has served over 1,800,000 paying subscribers and has over 200,000,000 unique visitors per month on its website. In Apple's App Store, Complainant's app ranks 131st in educational apps. On Google Play, Complainant's app has over 500,000 downloads and a 3.3 overall rating.

The Domain Name was registered on July 22, 2023, and leads to a website that purports to provide users the ability to download content from Complainant's platform without subscribing, effectively allowing for the free download of copyrighted documents (the "Website"). The Website advertises "download the Scribd document online for free", meaning that the Domain Name offers a tool to download Complainant's content without proper compensation. The Website therefore purportedly creates free access to copyrighted works that would only be accessible in full by paying for Complainant's services. The Website reproduces Complainant's SCRIBD trademark in its entirety, and also displays a similar logo.

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

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

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

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

Respondent did not formally reply to Complainant's contentions. On January 24, 2024, Respondent sent an email communication to the Center, claiming to have recently acquired the Domain Name and asking for clarification on the procedure and details of the Complaint.

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

## **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.

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 Domain Name. Accordingly, the 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 the letters "dl", 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here, claimed circumventing of Complainant's technical measures to allow users to download content from Complainant's platform without subscribing, effectively allowing for the free download of copyrighted documents, 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 Complainant's mark had been widely used and registered at the time of the Domain Name registration by Respondent, therefore the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v.*

*Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)). Furthermore, the Domain Name incorporates Complainant's mark, which consists of a fictitious word, in its entirety. This is also evidence of knowledge of Complainant and its rights.

As regards bad faith use, Complainant has demonstrated that the Domain Name is being used to create a website, which prominently displays Complainant's registered trademark, thereby giving the possible false impression that it is operated by Complainant. In fact, the Website has a fine print disclaimer at the bottom of the page indicating "DLscribd is Not affiliated With Any Websites (Such As Scribd.Com)" which seems to imply that Respondent anticipates that users may be confused by the source of the Website considering the circumstances of this case. The Website purports to give access to Complainant's platform and copyrighted works held there, for free. The Domain Name operates therefore by intentionally creating a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation, or endorsement of the Website. This can be used in support of bad faith registration and use (*Booking.com BV v. Chen Guo Long*, WIPO Case No. [D2017-0311](#); *Ebel International Limited v. Alan Brashear*, WIPO Case No. [D2017-0001](#); *Walgreen Co. v. Muhammad Azeem / Wang Zheng, Nicenic International Group Co., Limited*, WIPO Case No. [D2016-1607](#); *Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); and [WIPO Overview 3.0](#), section 3.1.4). Moreover, the addition of the letters "dl" which may be seen as a shortened version of "download" enhances the likelihood of confusion given that the Website itself markets itself as "Scribd Downloader".

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.

Panels have held that the use of a domain name for illegal activity, here, claimed circumventing of Complainant's technical measures to allow users to download content from Complainant's platform without subscribing, effectively allowing for the free download of copyrighted documents, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

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 Domain Name <dlscribd.net> be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: March 8, 2024