

## **ADMINISTRATIVE PANEL DECISION**

Scribd, Inc. v. Le Quang Minh  
Case No. D2023-0167

### **1. The Parties**

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

The Respondent is Le Quang Minh, Viet Nam.

### **2. The Domain Name and Registrar**

The disputed domain name <scribfree.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2023. On January 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2023, 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 January 20, 2023.

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 January 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 16, 2023.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on February 21, 2023. 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 an American e-book and audiobook subscription service. In 2007, the Complainant launched the open publishing platform and in 2013 the Complainant introduced its subscription service providing readers with monthly access to books. The Complainant owns and operates the domain name <scribd.com>, created on September 24, 2006.

Since 2007, the Complainant has served over 1,800,000 paying subscribers and has over 200,000,000 unique visitors per month on its website “www.scribd.com”. The Complainant is the 19th most downloaded application in Apple’s App Store under Books, with over 24,000 reviews and a 4.6 rating. On Google Play, the Complainant’s App has over 590,000 reviews and a 4.7 rating overall.

The Complainant holds worldwide trademark registrations for the SCRIBD trademark, such as the following:

- International Trademark Registration No. 1491187 for SCRIBD, registered on August 6, 2019, designating many jurisdiction worldwide and covering goods and services in International Classes 9, 35, and 42;
- United States Trademark Registration No. 3777227 for SCRIBD, registered on April 20, 2010 and covering goods and services in International Classes 09, 35, 38, and 42; and
- United States Trademark Registration No. 5898302 for SCRIBD, registered on October 29, 2019 and covering goods and services in International Classes 09, 35, and 42.

The disputed domain name <scribfree.com> was created on September 15, 2021 and resolves to a website which allows its Internet users to download content from the Complainant’s platform without subscribing to the Complainant’s services, by acting as a proxy and manipulating the URL link. The website includes the disclaimer “ScribFree.com is not affiliated with any websites (such as Scribd.com and Slideshare.net).” The first recorded use of the disputed domain name was captured on September 8, 2022.

#### **5. Parties’ Contentions**

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

##### **Identical or Confusingly Similar**

The Complainant asserts registered rights in the SCRIBD trademark. The Complainant submits that the disputed domain name is confusingly similar to the SCRIBD trademark.

The Complainants contend that the misspelling of the SCRIBD trademark, by deleting the letter “d” from the SCRIBD trademark, and addition of the descriptive term “free” would not prevent a finding of confusing similarity of the disputed domain name to the SCRIBD trademark.

##### **No rights or legitimate Interests**

The Complainant asserts that the Respondent lacks any rights or legitimate interests in the disputed domain name.

The Complainant submits that the disputed domain name was registered many years after the first registration and use of the Complainant’s SCRIBD trademark.

The Complainant claims that it has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form.

There is no evidence that the Respondent has any trademark rights or is known by the disputed domain name or owns any corresponding registered trademarks.

According to the Complainant, the disputed domain name is not being utilized in connection with a *bona fide* offering of goods or services. The Complainant contends that the Respondent does not offer any services or goods of its own, but instead it uses the disputed domain name to provide its users the ability to get free access and download content from the Complainant's platform without subscribing and without payment for the Complainant's subscription services by acting as a proxy and manipulating a URL link.

### **Registered and used in bad faith**

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant asserts that the Respondent must have had knowledge of the Complainant's rights in the SCRIBD trademark when registering the disputed domain name, and did so with the intent of misleading and diverting Internet traffic.

The Complainant further contends that the Respondent is using the disputed domain name to redirect traffic away from the Complainant and the subscription services it offers. The Complainant asserts that the Respondent registered and/or acquired the disputed domain name to use it 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 trademark 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**

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[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."

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain name 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**

Under the first element, the Complainant must establish that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

According to section 1.1.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the term “trademark or service mark” as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks.

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of [WIPO Overview 3.0](#). The Complainant submitted evidence that the SCRIBD trademark enjoys protection under various national and international trademark registrations. Thus, the Panel finds that the Complainant’s rights in the SCRIBD trademark have been established pursuant to the first element of the Policy.

It is well established that domain names, which consist of common, obvious or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 (“Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters [...], (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersing of other terms or numbers”). See *e.g. Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) (“This is clearly a ‘typosquatting’ case where the disputed domain name is a slight misspelling of a registered trademark to divert Internet traffic. In fact, the [...] domain name comprises the Complainant’s trademark [...] with a single misspelling of an element of the mark: a double consonant ‘s’ at the end”).

The disputed domain name in this Complaint is a misspelling of the Complainant’s SCRIBD trademark, by deleting the letter “d” from the SCRIBD trademark. Accordingly, the Panel finds that the Complainant’s SCRIBD trademark is clearly recognizable within the disputed domain name and the disputed domain name clearly constitutes an attempt at typosquatting, by the Respondent.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.

Respectively, adding only the word “free” to the misspelled Complainant’s SCRIBD trademark does not prevent a finding of confusing similarity between the disputed domain name and the SCRIBD trademark.

Under section 1.7 of the [WIPO Overview 3.0](#), while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Finally, for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain (“gTLD”), in this case “.com”, see section 1.11.1 of the [WIPO Overview 3.0](#).

It is the view of the Panel that it is readily apparent that the Complainant’s trademark remains recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the SCRIBD trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, *e.g., Malayan*

*Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the Complainant's contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its SCRIBD trademark.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name and has not made any *bona fide* use – neither commercial nor noncommercial, of the same.

Based on the case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

At the time of filing the Complaint, the disputed domain name resolved to a website allowing the Internet users to download content from the Complainant's official platform by illicitly manipulating the Complainant's URL link, whereas the full access to the Complainant's works would only be accessible by paying a subscription.

Thus, the disputed domain name is being used for offering content to Internet users which distribution is restricted by subscription. However, this act appears to be illegal since it allows Internet users to illegally get access to the copyrighted material.

These are definitely not activities falling under the circumstances listed by paragraph 4(c) of the Policy as demonstrating the Respondent's rights or legitimate interests in the disputed domain name, nor an activity from which rights or legitimate interests could arise. See sections 2.2 and 2.4 of the [WIPO Overview 3.0](#).

Previous UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See section 2.13.1 of the [WIPO Overview 3.0](#).

Thus, the Panel finds that the use of the disputed domain name appears to be fraudulent and could not be considered as a legitimate noncommercial or fair use.

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must show that the Respondent registered and is using the disputed domain name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The UDRP panels have found the following types of evidence to support a finding that the respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) the mere registration that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity; (ii) actual confusion; (iii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful; (iv) the lack of a respondent's own rights to or legitimate interests in a domain name; (v) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer; (vi) redirecting the domain name to the complainant's (or a competitor's) website; and (vii) absence of any conceivable good faith use. See section 3.1.4 of the [WIPO Overview 3.0](#).

In this case, the Panel has established that the Complainant's trademark has been registered and used well before registration of the disputed domain name. The disputed domain name incorporates the Complainant's distinctive trademark with a minor alteration and additional term "free" and is used for the manual SCRIBD downloader workarounds, that is considered to be illegal.

It is beyond reasonable doubt that the Respondent has been aware of the Complainant's SCRIBD trademark upon registration of the disputed domain name.

Taking this into account, as well as the fact that the Respondent has targeted the Complainant, its platform, and its potential clients, it is clear that the Respondent knew about the Complainant and its trademark SCRIBD when he registered the disputed domain name. This conduct constitutes opportunistic bad faith registration under the Policy. See section 3.2.1 of the [WIPO Overview 3.0](#).

The Respondent ignored its possibility to comment on the contrary and provide any good explanations to prove its good faith while registering and using the disputed domain name.

This Panel therefore finds that the Respondent acted in bad faith by its registration and use of the disputed domain name, intentionally creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website with the purpose of attracting Internet users for commercial gain as per paragraph 4(b)(iv) of the Policy.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## 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 <scribfree.com> be transferred to the Complainant.

*/Kateryna Oliinyk/*

**Kateryna Oliinyk**

Sole Panelist

Date: March 7, 2023