

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Fahad Mirza
Case No. D2024-2192

1. The Parties

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

The Respondent is Fahad Mirza, Pakistan.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 28, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 29, 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 (NAMECHEAP, INC.) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 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 June 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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on July 2, 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 and online software and retail platform providing a wide variety of computer, electronic, and software related goods.

The Complainant owns a variety of trademarks for SCRIBD worldwide in connection with computer, electronic, and software related goods, with ample registration details as follows:

- SCRIBD, United States Trademark Reg. No. 3777227, registered on April 20, 2010, for goods of 9 and services of 35, 38 and 42 classes;
- SCRIBD, United States Trademark Reg. No. 5898302, registered on October 29, 2019, for goods of 9 and services of 35 and 42 classes;
- SCRIBD, International Trademark Reg. No. 1491187, registered on August 6, 2019, for goods of 9 and services of 35 and 42 classes.

The Complainant has continuously used, and owned trademark registrations for its SCRIBD trademarks in connection with its computer software goods and services since at least as early as 2009.

The Complainant also owns and operates the domain name <scribd.com>, which was 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.

The disputed domain name was registered on January 14, 2024. The disputed domain name resolves to a website purportedly claiming to offer free downloads of documents from the Complainant's website by copy/pasting any URL of the document/file that an Internet user wants to download from the Complainant's website. The website has a disclaimer at the very bottom of its home page indicating it "operates independently and has no association with any external websites, including Scribd.com".

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.

Notably, the Complainant contends that:

- (1) the disputed domain name is identical or confusingly similar to the Complainant's SCRIBD trademark in which the Complainant has rights as demonstrated through its cited registrations. The SCRIBD trademark was adopted and has been continuously used since at least as early as 2009 in connection with a wide variety of computer, electronic, and software related goods. The Complainant maintains its online presence through its website hosted at its domain name <scribd.com>. The disputed domain name fully incorporates the Complainant's SCRIBD trademark. The addition of the descriptive term "downloader" is clearly not sufficient to avoid a likelihood of confusion with the Complainant's prior rights, and creates even stronger ties to the Complainant's trademark.

(2) the Respondent lacks any rights or legitimate interests in the disputed domain name. The Respondent does not have any trademark rights and is not using the disputed domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain. The Respondent's explicit use of the disputed domain name to provide its users the ability to download content from the Complainant's platform without subscribing by acting as a proxy and manipulating a URL link clearly shows that the Respondent is intentionally using the Complainant's SCRIBD trademark to redirect potential customers away from the Complainant's subscription service. The Respondent lacks license or permission to use the Complainant's SCRIBD trademark in any way and is not commonly known by the disputed domain name.

(3) the Respondent both registered and is using the disputed domain name in bad faith. The Respondent has registered and used the disputed domain name intentionally in an attempt to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademark. The Respondent could not have been unaware of the existence of the Complainant's famous trademarks and company name when registering the disputed domain name. The Respondent's use of a disclaimer mentioning that the disputed domain name is "an independent tool designed to ease downloading documents from Scribd for users who face limitations or prefer not log into their accounts" and specific targeting of the Complainant prove that the Respondent was aware of the Complainant's trademark and uses it for the purpose of misleading and diverting Internet traffic. The Respondent has registered the disputed domain name which incorporates the famous SCRIBD trademark belonging to a famous online retail and software business is alone sufficient to give rise to an inference of bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraphs 5(f) and 14(a) of the Rules, the effect of a default by a respondent is that, in the absence of exceptional circumstances, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed, the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

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.

Therefore, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the Top-Level Domain ("TLD") in which the domain name is registered) is identical or confusingly similar to the Complainant's trademark. This typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is

recognizable within the disputed domain name. Here, the disputed domain name incorporates the entirety of the SCRIBD trademark, adding the term “downloader”, which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark. [WIPO Overview 3.0](#), sections 1.7. and 1.8. Therefore, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its SCRIBD trademark.

The Panel therefore 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.

According to the Complainant’s assertions, the Respondent is neither a licensee nor otherwise affiliated with the Complainant and has not been authorized to use the SCRIBD trademark. The Complainant also claims that the Respondent is not commonly known by the disputed domain name and has not made any bona fide use of it, either commercially or noncommercially. Based on the case record, the Panel concludes that there is no evidence indicating that the Respondent is commonly known by the disputed domain name, and there is no resemblance or association between the Respondent’s name and the disputed domain name that could indicate rights or legitimate interests on the Respondent’s part.

The disputed domain name directs Internet users to a website that allows them to download content from the Complainant’s official platform by manipulating the Complainant’s URL link. Full access to the Complainant’s works is meant to be available only through a paid subscription. Therefore, the disputed domain name is being used to offer content that is restricted by subscription, which appears to be illegal as it provides unauthorized access to copyrighted material. Were this being true, panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Thus, the Panel finds that the use of the disputed domain name does not fall under the circumstances listed in paragraph 4(c) of the Policy that demonstrate the Respondent’s rights or legitimate interests in the disputed domain name, nor do they constitute an activity from which rights or legitimate interests could arise. See [WIPO Overview 3.0](#), sections 2.2 and 2.4.

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).

With the evidence on file, 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 this case, the Panel has determined that the Complainant's trademark was registered and used well before the disputed domain name was registered. The disputed domain name incorporates the Complainant's distinctive trademark along with the descriptive term "downloader" and is used for what appears to be illegal manual SCRIBD downloader workarounds. It is clear that the Respondent was aware of the Complainant's SCRIBD trademark when registering the disputed domain name. Considering this, and the fact that the Respondent targeted the Complainant, its platform, and its potential clients, it is evident that the Respondent knew about the Complainant and its trademark SCRIBD at the time of registration. This behavior constitutes opportunistic bad faith registration under the Policy. See [WIPO Overview 3.0](#), section 3.2.1.

Furthermore, the Panel considers that the Respondent not only registered, but also is using the disputed domain name in bad faith. The Respondent's use of a disclaimer mentioning that the disputed domain name is "an independent tool designed to ease downloading documents from Scribd for users who face limitations or prefer not log into their accounts" and specific targeting of the Complainant prove that the Respondent uses the disputed domain name for the purpose of misleading and diverting Internet traffic. Panels have also held that the use of a domain name for what appears to be illegal activity here constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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. Although the website at the disputed domain name has a disclaimer at the very bottom of its home page indicating it "operates independently and has no association with any external websites, including Scribd.com". Considering the overall circumstances of this case pointing to the Respondent's bad faith, the Panel finds that the mere existence of such disclaimer cannot cure such bad faith. [WIPO Overview 3.0](#), section 3.7.

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 <scribddownloader.xyz> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: July 14, 2024