

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Ma Thien Lieu
Case No. D2022-1667

1. The Parties

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

The Respondent is Ma Thien Lieu, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <scribful.com> is registered with Eranet International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 6, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 21, 2022, 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 May 23, 2022, 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 May 23, 2022.

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 May 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 14, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on June 23, 2022. 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 corporation headquartered in San Francisco, United States. It is a provider of computer, electronic, and software-related goods and services, including digital media subscription services.

The Complainant is the owner of numerous registrations for the trademark SCRIBD in a variety of territories around the world. Those registrations include, for example, United States trademark registration number 3777227 for the word mark SCRIBD, registered on April 20, 2010, in International Classes 9, 35, 38, and 42.

The Complainant operates a website at “www.scribd.com”.

The disputed domain name was registered on October 23, 2021.

The Complainant provides evidence that the disputed domain name has resolved to a website at “www.scribful.com”. The website is headed “Scribd Downloader Full PDF” and appears to offer the facility to download content from the Complainant’s website. It includes a disclaimer stating that it “[...] is not affiliated with any websites (such as Scribd.com).” The website includes third-party advertising.

5. Parties’ Contentions

A. Complainant

The Complainant states that, since 2007, it has served over one million paying subscribers and has over 100 million unique visitors to its website every month. It provides evidence of a significant presence on both the Apple App Store and Google Play.

The Complainant submits that the disputed domain name is virtually identical to its trademark SCRIBD. It states that the disputed domain name incorporates effectively the whole of that trademark, omitting only the letter “d”, and adding the term “ful”. The Complainant contends that a minor addition of this nature is insufficient to avoid confusion between the disputed domain name and the Complainant’s trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never authorized the Respondent to use its SCRIBD trademark, that the Respondent has not been commonly known by the disputed domain name and that the Respondent is not making *bona fide* commercial use of the disputed domain name. The Complainant says that the Respondent’s website does not represent *bona fide* commercial use because it is offering visitors free access to the Complainant’s copyright material that would only be accessible in full by paying for Complainant’s subscription services, and is therefore competing with the Complainant.

The Complainant submits that the disputed domain name was registered and has been used in bad faith.

The Complainant contends that, because the Respondent’s website refers expressly to the Complainant and its services, it is clear that the Respondent was aware of the Complainant’s trademark when it registered the disputed domain name.

The Complainant submits that the Respondent is using the disputed domain name to target the Complainant’s SCRIBD trademark and to divert Internet users who are looking for the Complainant. The Complainant further submits that the Respondent’s use of the disputed domain name to offer services that compete with the Complainant’s own services constitutes use of the disputed domain name in bad faith.

The Complainant refers to two previous cases which it has brought successfully against the Respondent under the UDRP, namely, *Scribd, Inc. v. Ma Thien Lieu*, WIPO Case No. [D2021-1077](#), in which a decision was given on May 31, 2021 and *Scribd, Inc. v. Ma Thien Lieu*, WIPO Case No. [D2021-3360](#), in which a decision was given on December 16, 2021. The first of these cases concerned the domain name <scribdfull.com> and the second <scribfull.com>. The Complainant points out the similarity of these domain names to the disputed domain name and submits that the Respondent is merely making minor changes to the disputed domain name in order to continue to mislead Internet users.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are 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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the mark SCRIBD. The disputed domain name incorporates the letters "scrib", being all but the last letter of that trademark, together with the additional letters "ful". The Panel considers that the Complainant's trademark is recognizable within the disputed domain name despite these differences and finds, therefore, that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

The Respondent uses the disputed domain name for the purpose of a website which, on the evidence of the Complainant, offers the Complainant's subscription-based materials free of charge, thereby depriving the Complainant of revenue it would obtain from those materials. The Panel therefore considers that the Respondent is using the disputed domain name unfairly to target the Complainant's trademark to cause financial detriment to the Complainant. This does not constitute *bona fide* offering of goods or services nor noncommercial or fair use of the disputed domain name, and the Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

Since the Respondent's website expressly refers to the Complainant's materials and includes a supposed disclaimer mentioning the Complainant, there can be no doubt that the Respondent registered the disputed domain name with the Complainant's SCRIBD trademark in mind.

The Panel finds further that the disputed domain name is misleading, as tending to suggest to Internet users that it has some commercial affiliation with the Complainant. In the Panel's view, it is unimportant that, on reaching the Respondent's website, Internet users may realize that it is not operated by the Complainant, since they have already been misleadingly attracted to the website. The website appears to offer visitors the Complainant's subscription-based and copyright materials for free. Accordingly, the Respondent is unfairly targeting the Complainant's trademark to cause financial detriment to the Complainant. Moreover, the website includes third-party advertising from which the Respondent may be assumed to receive revenue and the Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel also accepts the Complainant's submission that, having already been the subject of two previous adverse findings under the UDRP involving very similar domain names, it appears that the Respondent is engaging in a deliberate pattern of serially registering similar domain names which target the Complainant's trademark.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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, <scribful.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: July 7, 2022