

ADMINISTRATIVE PANEL DECISION

Scribd, Inc. v. Nanci Nette, Name Management Group
Case No. D2024-4613

1. The Parties

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

The Respondent is Nanci Nette, Name Management Group, United States.

2. The Domain Name and Registrar

The disputed domain name <freescribddownload.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2024. On November 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 13, 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 (Pending Renewal or Deletion) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 amended Complaint on November 21, 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 the Respondent of the Complaint, and the proceedings commenced on November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent of its default on December 20, 2024.

The Center appointed Dennis A. Foster as the sole panelist in this matter on December 26, 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

A United States corporation, the Complainant has been engaged in the delivery of computer software goods and services since at least 2007. The Complainant provides its wares through its domain name, <scribd.com>, which was created in 2006. Since 2007, the Complainant has served more than 1,950,000 paying subscribers and over 200,000,000 unique visitors per month. The Complainant conducts its business under its service mark, SCRIBD, which has been registered throughout the world, including with the United States Patent and Trademark Office (“USPTO”) (e.g., Registration No. 3777227; registered on April 20, 2010).

The disputed domain name, <freescriddownload.com>, is owned by the Respondent, who registered the disputed domain name on October 17, 2021. The disputed domain name, at the time of filing of the Complaint, was connected to a website that did not offer goods or services beyond pay-per-click (“PPC”) links to websites owned by entities other than the Complainant.

5. Parties’ Contentions

A. Complainant

--The disputed domain name is confusingly similar to the Complainant’s SCRIBD service mark, which is fully incorporated within the disputed domain name. The addition of the descriptive terms “free” and “download” do not effectively distinguish the disputed domain name from the mark, especially since those terms relate directly to the Complainant’s offerings.

--The Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant is not affiliated with the Respondent and has not granted any authorization for use of its service mark to the Respondent. The Respondent’s passive holding of the disputed domain name, except for PPC linkage, is inconsistent with a bona fide offering of goods or services and fails to conform to a legitimate noncommercial or fair use thereof. Finally, there is no reason to conclude that the Respondent is, or has ever been, commonly known as the disputed domain name.

--The Respondent registered and is using the disputed domain name in bad faith. Because the disputed domain name fully incorporates the Complainant’s service mark, it is clear that the Respondent was aware of that mark and the Complainant when registering the disputed domain name.

--The attachment of the disputed domain name to a minimally functioning website that offers only PPC linkage, deliberately intended for the Respondent’s financial benefit, is conclusive evidence of bad faith registration and use on the part of the Respondent.

B. Respondent

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

6. Discussion and Findings

Pursuant to Policy paragraphs 4(a)(i) - (iii), the Panel may find in favor of the Complainant and grant a transfer of the disputed domain name, <freescriddownload.com>, if the Complainant can establish that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed 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.

The Complainant has shown rights with respect to its SCRIBD service mark for the purposes of the Policy by presentation of clear evidence to the Panel of a USPTO registration for that mark. [WIPO Overview 3.0](#), section 1.2.1; and see *LO 337 IP Holding, LLC v. John Williams, J Entertainment ATL / John Williams, J Entertainment Productions*, WIPO Case No. [D2019-2339](#) ("The Panel concludes that Complainant has rights in the mark WORLD STAR HIP HOP through registration with the USPTO.").

The Panel notes that the entirety of the SCRIBD service mark is reproduced within the disputed domain name. Although the addition of other terms, "free" and "download" may bear upon assessment of the second and third elements, the Panel finds that the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and that mark for the purposes of the Policy. Also, the addition of a generic Top-Level Domain ("gTLD") within a disputed domain name has been consistently ignored by UDRP panels when assessing the similarity of a disputed domain name and a complainant's established mark. [WIPO Overview 3.0](#), section 1.8; and *WhatsApp LLC v. Mary Anne*, WIPO Case No. [D2021-1240](#) (finding <freewhatsappdownload.net> to be confusingly similar to the WHATSAPP mark).

As a result, the Panel finds that the Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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, those prior panels have consistently found that a complainant must put forward a mere prima facie case that a respondent lacks rights or legitimate interests in a disputed domain name before the burden falls on the respondent to produce convincing evidence of those rights or legitimate interests (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; and see *Wal-Mart Stores, Inc. v. WalMart Careers, Inc.*, WIPO Case No. [D2012-0285](#) ("According to the consensus view of UDRP Panels, if such prima facie case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name.").

Having reviewed the available record with respect to the confusing similarity between the disputed domain name and the Complainant's SCRIBD mark and the Complainant's clear denial of any existing business relationship with the Respondent, the Panel finds that 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 filed a rebuttal to the Complainant's prima facie showing and thus 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. However, the Panel will examine the record for evidence that might sustain the Respondent's required rebuttal. In doing so, the Panel will accept all reasonable evidence submitted in the Complaint as true. [WIPO Overview 3.0](#), section 2.1 ("The panel may draw inferences from

the absence of a response as it considers appropriate, but will weigh all available evidence irrespective of whether a response is filed.”); and *SomaLogic Operating Co. v. Edwards James*, WIPO Case No. [D2022-2902](#).

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. With respect to Policy paragraph 4(c)(i), the Panel gleans from the verifiable record in this case that the website connected with the disputed domain name provides nothing other than PPC links to companies offering services related to those of the Complainant, and, as such, does not amount to “a bona fide offering of goods or services.” [WIPO Overview 3.0](#), section 2.9 (“Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.”); and *Government Employees Insurance Company GEICO v. Raymond Martin*, WIPO Case No. [D2023-3172](#) (“...the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links [...] relate to insurance, which is the Complainant’s field of activity.”).

As to Policy paragraph 4(c)(ii), the Panel detects no evidence in the record to believe that the Respondent, Nanci Nette, has ever been commonly known as the disputed domain name, <freescriddownload.com>. Finally, the aforementioned PPC link usage of the disputed domain name fails to comport with a “legitimate noncommercial or fair use” of that name pursuant to paragraph 4(c)(iii) of the Policy. Consequently, the Panel finds that the Respondent’s use of the disputed domain name fails to fall within the circumstances listed in Policy Paragraph 4(c) with respect to any feasible rebuttal to the Complainant’s prima facie case, and thus that case must prevail.

As a result, the Panel finds that the Complainant has satisfied the second element of the Policy.

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 shall be evidence of the registration and use of a domain name in bad faith.

As noted above, the Panel has found that the Respondent provides PPC links on the website attached to the disputed domain name. As those links lead to the webpages of companies that offer products and services that relate to those supplied by the Complainant, the Panel finds that such use of the disputed domain name by the Respondent is meant for commercial gain through the likelihood of Internet user confusion with the Complainant’s service mark as to the source, sponsorship, affiliation, or endorsement of the website attached to the disputed domain name in bad faith per Policy paragraph 4(b)(iv). See *AXA SA v. Nanci Nette, Name Management Group*, WIPO Case No. [D2022-4885](#) (“The Domain Name has been used to host PPC links which advertise services relating to and competitive with those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy.”); and *Fontem Holdings 4, B.V. v. J- B-, Limestar Inc.*, WIPO Case No. [D2016-0344](#) (“The Panel further finds that the Respondent’s use of the Domain Name to resolve to a parking page containing sponsored links constitutes bad faith [...] in accordance with paragraph 4(b)(iv) of the Policy.”).

Moreover, the Panel must also conclude that the Respondent is a serial cybersquatter, having lost a multitude of prior UDRP cases wherein bad faith registration and use of disputed domain names have been found by various Policy panels. See *AXA SA v. Nanci Nette, Name Management Group, supra*.

As a result, 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, <freescribdownload.com>, be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: January 9, 2025