

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Aangothu Renuka, Jawaharlal N, Instadownloader Case No. D2024-0144

1. The Parties

The Complainant is Instagram, LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The First Respondent is Aangothu Renuka, India.

The Second Respondent is Jawaharlal N, Instadownloader, India.

Collectively the First and Second Respondents will be referred to as the “Respondent” as addressed in Section 6 of this decision.

2. The Domain Names and Registrars

The disputed domain names <instadl.app>, <instadownload.app>, <instagramvideodownloader.net>, and <instastoryviewer.net> are registered with GoDaddy.com, LLC (the “First Registrar”). The disputed domain name <saveinsta.website> is registered with NameCheap, Inc. (the “Second Registrar”). For the purposes of the decision the disputed domain names will be referred to as the “Domain Names”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names for which the Complainant was initially filed. On January 16, 2024, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for these Domain Names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. On January 17, 2024, the Center provided the Complainant the contact information for the Domain Names which differed from the named Respondent. On January 22, 2024, the Complainant requested the addition of the Domain Names <saveinsta.website> and <instastoryviewer.net> to the proceeding and filed a first amended Complaint. The Center transmitted by email to the Registrars a request for registrar verification in connection with the additional disputed domain names. On January 23, 2024, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name <instastoryviewer.net> confirming that the Respondent is listed as the registrant in the first Complaint and providing the contact details. On January 31, 2024, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name

<saveinsta.website> which differed from the named Respondent and contact information in the first Complaint.

The Center sent an email communication to the Complainant on January 31, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed a second amended Complaint on February 2, 2024.

The Center verified that the Complaint together with the amended Complaints (hereafter “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 February 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2024. The First Respondent sent an email communication to the Center on February 7, 2024, stating that they were unaware of the trademark and that they would be closing those websites. However, the Respondent did not submit any formal Response. The Center notified the parties of the commencement of panel appointment process on February 28, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on March 5, 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 company established in 2010 that operates a well-known social media network under the trademark INSTAGRAM (the “INSTAGRAM Mark”) often abbreviated to “INSTA”, that specialises in online photo and video sharing. The Complainant’s Instagram product was launched in 2010 and has more than 2 billion monthly active accounts. Its Instagram app is the second most downloaded app worldwide.

The Complainant is the owner of a trademark registration in the United States for the word mark INSTA (the “INSTA Mark”) No. 5061916 registered on October 18, 2016 for downloadable computer software in class 9. It is also the owner of trademark registrations in the United States and the European Union for the INSTAGRAM Mark, including United States trademark No. 4146057 registered on May 22, 2012.

The Domain Names were registered between 16 March and 16 June 2023. The Domain Names resolve to a set of similar websites (the “Respondent’s Websites”) that reproduce the INSTA or INSTAGRAM marks where the Respondent purports to offer services allowing viewers to download Instagram content and the contents on other third party social-media platforms. Furthermore, the services purportedly offered at the Respondent’s Websites breach the Complainant’s terms of service in that they allow scraping from the Instagram platform and allow individuals to view content posted on the Instagram platform without accessing the platform itself.

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 Domain Names.

Notably, the Complainant contends:

(i) that each of the Domain Names is confusingly similar to the Complainant's INSTA or INSTAGRAM Mark as each Domain Name consists of either the INSTA or INSTAGRAM Mark along with a generic term or terms and a generic Top-Level Domain ("gTLD");

(ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Names. The Respondent is not commonly known by the Domain Names, nor has it conducted a legitimate business under the Domain Names. The Complainant has not authorized or licensed the Respondent to use the INSTA or INSTAGRAM Mark. The use of the Domain Names to purport to offer a service allowing viewers to download content from the social media platforms including the Instagram site involves the Respondent engaging in conduct that is against the Instagram terms of service and misleadingly represents that the Respondent is associated with the Complainant in some way. Such a use is not bona fide; and

(iii) that the Domain Names have been registered and are being used in bad faith. Given the reputation of the Complainant's well-known INSTA and INSTAGRAM Mark and the use to which the Domain Names have been put, it is inconceivable that the Respondent registered the Domain Names unaware of the Complainant's rights. The Domain Names resolve to websites which purport to offer services that involve circumventing the Complainant's terms of service and putting the privacy and security of the Complainant's users at risk. This conduct amounts to registration and use of the Domain Names in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. The Respondent's communication of February 7, 2024 is reproduced below in its entirety:

"Sorry, we have closed the website you mentioned above. The reason for using the domain mentioned above is that many other online websites use keywords like insta. When it was registered, we thought it was not a trademark word. Finally, we conclude that we are closing those websites now."

6. Discussion and Findings

6.1 Consolidation: Multiple Respondents

The second amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the Domain Names registrants pursuant to paragraph 10(e) of the Rules.

The registrants of the Domain Names did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the Panel notes that the Domain Names wholly incorporate the INSTA or INSTAGRAM Marks, were registered within a three-month period of each other, and resolve to what are very similar websites on the same business model. Moreover, each of the Respondent's Websites provide the same contact email address and each of the Domain Names have the

same contact email address and almost identical phone numbers. It would be implausible for two unconnected entities who shared an email address and almost identical phone numbers to register domain names targeting the same company and have them resolve to similar websites.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. Finally, the Panel notes that neither of the named registrants have denied any association with the other or objected to the consolidation of the proceedings requested by the Complainant.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different registrants of the Domain Names (referred to generally in this decision as “the Respondent”) in a single proceeding.

6.2 Substantive Issues

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 names. [WIPO Overview 3.0](#), section 1.7.

The 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 one the marks for which the Complainant has established rights (the INSTAGRAM or INSTA Mark) is reproduced within each of the Domain Names. Accordingly, the Domain Names are confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, including “download” and “story viewer”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Names and the marks 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Names. 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 Domain Names such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2;
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Names. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4; and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Names.

It appears from the evidence submitted by the Complainant that the Respondent has used the Domain Names to operate a series of websites that purport to be associated with the Complainant and purport to allow users to download and access material from the social media platforms including the Complainant's Instagram platform, notwithstanding that the Complainant does not allow Internet users to access material on its Instagram platform without actually accessing the platform. If such services are not real, then the Respondent is engaging in fraudulent conduct. If such services are real then the Respondent, in providing these services, is engaged in the process of circumventing the Complainant's access restrictions to its Instagram platform and breaching the Complainant's terms of service. Such conduct may be fraudulent and is not a bona fide offering of goods or services.

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.

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.

The Respondent is using the Domain Names for websites purporting to offer services that involve unauthorized and automated accessing and downloading of content from the social media platforms particularly from the Complainant's Instagram platform. In previous UDRP decisions such conduct has been found to be evidence of registration and use in bad faith, see *Instagram, LLC v. WhoisGuard, Inc. / Name Redacted, Senol Sahin, thepicdeer.com, Ekrem Gueltekin and Ekrem Gultekin*, WIPO Case No. [D2020-2826](#) and *Facebook, Inc. v. Registration Private, Domains By Proxy, LLC / Giap Nguyen Van and Giao Tran Ngoc*, WIPO Case No. [D2018-2762](#), in which the panel described the then respondent's conduct as follows:

"The disputed domain names <fbcandy.com> and <fbsendy.com> have been used but for a service involving the scraping of personal data of the Complainant's users which is very likely to involve breach of data protection laws and which breaches the Complainant's terms and conditions. [...] the Panel is satisfied that the user data scraping services offered at the disputed domain names, <fbcandy.com> and <fbsendy.com> are clear indicia of use in bad faith."

The Panel agrees with the conclusions of the panels in the cases above and finds that the Respondent has registered and is using the Domain Names in bad faith.

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 Domain Names <instadl.app>, <instadownload.app>, <instagramvideodownloader.net>, <instastoryviewer.net> and <saveinsta.website> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: March 7, 2024