

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc., Instagram, LLC v. Proxy Protection LLC / Sevan
Seviant, Seviant, Proxy Protection LLC
Case No. D2022-1407

1. The Parties

Complainants are Meta Platforms, Inc., Instagram, LLC, United States of America (the “United States” or “U.S”), represented by Hogan Lovells (Paris) LLP, France.

Respondent is Proxy Protection LLC, United States / Sevan Seviant, Seviant, United States.

2. The Domain Name and Registrar

The disputed domain names <followmeonfacebook.com> and <followmeoninstagram.com> are registered with DreamHost, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2022. On April 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 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 Complainants on May 2, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on May 6, 2022.

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 Respondent of the Complaint, and the proceedings commenced on May 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2022. Respondent submitted an informal communication to the Center on May 4, 2022, before the disputed was formally commenced. Respondent did not submit a formal response to

Complainants' contentions. Accordingly, the Center notified the proceeding to panel appointment on May 30, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on June 9, 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

A. Complainants

Complainants are related companies. Specifically, Complainant Meta Platforms, Inc., is the parent company, of which Complainant Instagram, LLC, is a wholly owned subsidiary ("Meta," "Instagram" and collectively, the "Complainants"). Prior UDRP panels have found under such circumstances that it is appropriate for companies to bring a joint complaint where

- (i) the complainants either have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants' individual rights in a similar fashion;
- (ii) it would be equitable and procedurally efficient to permit the consolidation; or in the case of complaints brought (whether or not filed by multiple complainants) against more than one respondent, where (i) the domain names or the websites to which they resolve are subject to common control, and (ii) the consolidation would be fair and equitable to all parties.

See Paragraph 4.16 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions ("[WIPO Overview 3.0](#)") (discussing when it is appropriate for multiple companies to serve as joint complainants). The Panel finds that these criteria are satisfied and it is appropriate to have joint Complainants in this proceeding. See also *eBay Inc., PayPal Inc. v. Rene Rene/Wuxi Yilian LLC*, WIPO Case No. [D2015-0010](#) and *Altria Group, Inc. and Philip Morris USA Inc. v. Leonard Di Bari*, WIPO Case No. [D2014-0181](#), finding consolidation appropriate for a parent and wholly-owned subsidiaries.

Meta, formerly known as Facebook, is a provider of online social networking services. Launched in 2004, Facebook now has 2 billion active users. Its main website is "www.facebook.com", is the third most visited in the world.

Instagram, is one of the world's leading online photo and video social networking apps. Launched in 2010, Instagram was acquired by Facebook in 2012. Instagram's main website, "www.instagram.com", is the sixth most visited in the world.

Complainants own trademark registrations for the marks FACEBOOK and INSTAGRAM. These include, among others, U.S. Registration No. 3041791 for FACEBOOK (Registered January 10, 2006), and U.S. Registration No. 4146057 for INSTAGRAM (Registered May 22, 2012).

B. Disputed Domain Names

The disputed domain names were apparently registered on April 21, 2012. The disputed domain name <followmeonfacebook.com> has been linked to a website offering services that compete with those offered by Complainants under their FACEBOOK mark. The disputed domain name <followmeoninstagram.com> is not linked to an active website. Respondent nevertheless has no affiliation with Complainants, nor any license to use their marks.

5. Parties' Contentions

A. Complainant

Complainants contend that (i) the disputed domain names are identical or confusingly similar to Complainants' trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain names; and (iii) Respondent registered and is using the disputed domain names in bad faith.

Specifically, Complainants contend that they own the FACEBOOK and INSTAGRAM marks, and that Complainants have acquired "renown and global goodwill" associated therewith. Complainants contend that Respondent has incorporated Complainants' well-known FACEBOOK mark into the disputed domain name <followmeonfacebook.com>, and merely added the dictionary terms, "follow" "me" "on" which consumers will associate with the social media features of Complainants' FACEBOOK mark.

Complainants similarly contend that Respondent has incorporated Complainants' well-known INSTAGRAM mark into the disputed domain name <followmeoninstagram.com>, and merely added the dictionary terms, "follow" "me" "on" which consumers will associate with the social media features of Complainants' INSTAGRAM mark.

Complainants contend that Respondent lacks rights or legitimate interest in the disputed domain names, and rather has registered and is using them in bad faith, having simply acquired the disputed domain names for Respondent's own commercial gain, likely in a "fraudulent" scheme.

B. Respondent

On May 4, 2022, Respondent sent an informal communication to the Center before the dispute was formally commenced mainly expressing its unfamiliarity with this process, and why the Complaint was filed. Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainants have rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that they are. The disputed domain name <followmeonfacebook.com> incorporates in full Complainant's registered FACEBOOK mark and merely added the dictionary terms, "follow" "me" "on." Similarly, the disputed domain name <followmeoninstagram.com> incorporates in full Complainant's registered INSTAGRAM mark and merely added the dictionary terms, "follow" "me" "on."

Numerous UDRP panels have agreed that supplementing or modifying a trademark with dictionary terms does not prevent a finding of a domain name from being "identical or confusingly similar" to that trademark under this first prong of paragraph (4)(a)(i) of the Policy. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.8 "[w]here 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 Panel therefore finds that the disputed domain names are identical or confusingly similar to a trademark in which Complainants have rights in accordance with paragraph (4)(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainants have shown that Respondent has no "rights or legitimate interest," as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services;" (ii) demonstration that respondent has been "commonly known by the domain name" or (iii) "legitimate noncommercial or fair use of

the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

No evidence has been presented to the Panel that might support a claim of Respondent’s rights or legitimate interests in the disputed domain names, and Respondent has no license from, or other affiliation with, Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence for a *prima facie* case that Respondent lacks “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel’s decision, the disputed domain name <followmeonfacebook.com> has been linked to a website that appears to offer services that are intended to replicate, possibly in a fraudulent manner, those offered by Complainant under its FACEBOOK mark, presumably for Respondent’s own commercial gain. The disputed domain name <followmeoninstagram.com> is not currently linked to an active website. It is nevertheless well established that passive holding of a domain name does not necessarily shield a respondent from a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3, which notes that the “non-use of a domain name” does not necessarily negate a finding of bad faith.

Rather, a panel must examine “the totality of the circumstances,” including, for example, whether a complainant has a well-known trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent here used a privacy service, and Respondent did not formally respond to the Complaint, nor to prior correspondence from Complainants. Furthermore, Complainants have demonstrated a high level of consumer exposure to their marks in jurisdictions around the world. A number of prior UDRP panels have found Complainant’s FACEBOOK and INSTAGRAM marks to be extremely well known. See, for example, *Facebook Inc. v. Bolton*, WIPO Case No. [D2016-0623](#) (finding FACEBOOK to be “one of the most famous online trademarks in the world”); *Instagram, LLC v. Zhou*, WIPO Case No. [D2014-1550](#) (finding INSTAGRAM to have “a strong presence online”). Given the level of exposure of Complainants’ marks and of their social networking services, the Panel would be hard pressed to find that Respondent was not aware of them at the time of registering the disputed domain names.

Therefore, the Panel finds that Respondent registered and used the disputed domain names in bad faith for purposes of paragraph (4)(a)(iii) 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 names be transferred as follows:

1. <followmeonfacebook.com> be transferred to Complainant Meta Platforms, Inc.; and
2. <followmeoninstagram.com> be transferred to Complainant Instagram, LLC.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: June 15, 2022