

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Instagram LLC v. Claes Nykvist
Case No. D2022-1998

1. The Parties

The Complainants are Meta Platforms, Inc. and Instagram LLC (the “Complainant”), both from United States of America (“United States” or “USA”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Claes Nykvist, Sweden.

2. The Domain Names and Registrar

The disputed domain names <instagrammeta.net> and <instagrammeta.org> (the “Disputed Domain Names”) are both registered with GoDaddy.com, LLC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2022. On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On June 3, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 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 amended Complaint on June 8, 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 the Respondent of the Complaint, and the proceedings commenced on June 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2022. The Respondent sent informal communication emails on June 17, June 20 and on June 22, 2022, however did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on July 4, 2022.

The Center appointed Peter Wild as the sole panelist in this matter on July 6, 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 one of the biggest and best-known groups in the field of social media, known as Instagram and Meta (previously Facebook) and as such the owner of the following trademarks:

- United States Trademark Registration No. 5548121, META, registered on August 28, 2018, and assigned to the Complainant on October 26, 2021;
- Andorran Trademark Registration No. 43626, META, registered on January 3, 2022;
- Monaco Trademark Registration No. 2200039, META, registered on February 8, 2022;
- European Union Trademark Registration No. 14493886, INSTAGRAM, registered on December 24, 2015;
- United States Trademark Registration No. 4146057, INSTAGRAM, registered on May 22, 2012; and
- International Registration No. 1129314, INSTAGRAM, registered on March 15, 2012.

On October 28, 2021, the Complainant, previously known as Facebook, informed with a worldwide media release that it changed its name to Meta Platforms, Inc.

The Disputed Domain Names were registered on October 29, 2021, and they are inactive.

After an informal letter, on April 4, 2022, the Complainant sent a formal cease and desist letter to the Respondent's email address, to which the Respondent replied he was not the owner of the Disputed Domain Names.

5. Parties' Contentions

A. Complainant

The Complainant owns and extensively uses the trademarks INSTAGRAM and META, both of which are worldwide well-known trademarks. The Complainant submits that the Respondent has no rights or legitimate interests in these trademarks or the Disputed Domain Names. The Complainant further claims that the Respondent's bad faith is supported by the Respondent using a privacy or proxy service to avoid being notified of a UDRP proceeding filed against it and the absence of any plausible explanation how the Respondent came up with the Disputed Domain Names. The Complainant also requests that the procedure against the two Disputed Domain Names be consolidated.

B. Respondent

The Respondent did not reply to the Complainant's contentions. In his informal communications to the Center, the Respondent stated, *inter alia*, "I have no interest in having these domains [...]" and "[h]ow and where do I transfer the domains?"

6. Discussion and Findings

Request for Consolidation of multiple Complaints

The Complainant requests that the two Complaints be consolidated, as the Complainant are part of one group, and both being aggrieved by the two Disputed Domain Names. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1, the panel has the power to consolidate multiple domain name disputes under certain conditions, namely if (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.

This Panel holds that the required conditions are present. Both Complainants have a specific common grievance against the Respondent, the Respondent has engaged in common conduct that has affected the Complainants in a similar fashion, and it would be equitable and procedurally efficient to permit the consolidation.

For these reasons, it is held that the two Complaints are consolidated.

A. Identical or Confusingly Similar

The Complainant has established its rights in the INSTAGRAM and META trademarks.

The Disputed Domain Names reproduce the Complainant's trademarks in their entirety. The Top-Level-Domain ("TLD"), in the present case ".org" and ".net", do not avoid a finding of confusing similarity under the Policy. The INSTAGRAM and META trademarks are clearly recognizable in the Disputed Domain Names. The Panel concludes that the Disputed Domain Names are confusingly similar to the Complainant's established trademarks.

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

The Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the Disputed Domain Names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

There is no reason to believe nor any indication that the Respondent's name somehow corresponds with the Disputed Domain Names and the Respondent does not appear to have any trademark rights associated with the term "INSTAGRAM" or "META". See *VUR Village Trading No. 1 Limited t/a Village Hotels v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1596](#).

The Respondent is not identified in the Registrar's Whois database as "INSTAGRAMMETA". Previous UDRP panels have held that a respondent was not commonly known by a disputed domain name, if not even the Whois information was similar to the disputed domain name. There is no evidence in the case file showing that the Respondent may be commonly known as "INSTAGRAMMETA". The Panel therefore finds under paragraph 4(c)(ii) of the Policy that the Respondent is not commonly known by the Disputed Domain Names.

According to the Complainant, the Respondent is not affiliated with nor authorized by the Complainant in any way to use its trademarks and there is no other plausible reason for registration of the Disputed Domain Names than to take advantage of the goodwill and reputation associated with the trademarks INSTAGRAM and META. Furthermore, the Disputed Domain Names appear to point to inactive websites, which clearly

cannot be considered as a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

Moreover, the Panel finds that the Disputed Domain Names are inherently misleading and carry a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the foregoing, the Panel holds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

Therefore the Panel finds that the second condition of the Policy is met.

C. Registered and Used in Bad Faith

The Internet user does not get to access any content at the website to which the Disputed Domain Names resolve; there does not appear to be any use of the Disputed Domain Names.

Non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. When looking at the totality of the circumstances of the subject case, and considering the factors that (i) the Complainant's marks enjoy a high degree of distinctiveness and reputation, (ii) it is not imaginable what evidence could be brought forward in support of the Respondent's good-faith when registering the Disputed Domain Names, and (iii) the implausibility of any good faith use to which the inherently misleading Disputed Domain Names may be put, it is clear that the Respondent did act in bad faith when registering and using the Disputed Domain Names, see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Complainant's trademarks are well known and previous panels have ordered the transfer of domain names which were composed of the terms INSTAGRAM and/or META, See *Instagram, LLC v. James H Park, JIN-1*, WIPO Case No. [D2021-1605](#), *Meta Platforms, Inc. v. Whois Privacy Registrant, Private by Design, LLC / Giovanni Niemann and Dangidi Dangido*, WIPO Case No. [DIO2022-0008](#).

The Respondent's bad faith claim is further supported by the fact that the Respondent answered to a cease and desist letter from the Complainant claiming that he was not the owner of the Disputed Domain Names, a claim which was proven wrong once the Registrar revealed the details of the underlying registrant for the Disputed Domain Names. In addition, the registration date of the Disputed Domain Names, October 29, 2021, is another indication of bad faith. On October 28, 2021, the Complainant issued a press release informing about the renaming of its corporate name from Facebook to Meta, an announcement which made worldwide headlines. It appears not far-fetched to assume that the Respondent saw these press releases and reacted by registering the Disputed Domain Names. See *HSBC Finance Corporation v. Clear Blue Sky Inc. and Domain Manager*, WIPO Case No. [D2007-0062](#).

The Complainant's registration and use of the relevant trademarks and domain names predate the date at which the Respondent registered the Disputed Domain Names.

Given the distinctiveness of the Complainant's trademarks, and the publicity of the Complainant's name change just a day before the registration of the Disputed Domain Names, it is reasonable to infer that the Respondent has registered the Disputed Domain Names with full knowledge of the Complainant's trademarks, constituting opportunistic bad faith. The Panel finds it hard to see any other explanation than that the Respondent knew of the Complainant's well-known trademarks. In the absence of another explanation by the Respondent, this is the most likely and plausible explanation.

The Respondent has not shown that it owns any trademark or any similar marks to the term "Instagrammeta". The Respondent's lack of rights or legitimate interests in the Disputed Domain Names is further indication of bad faith in registering and using the Disputed Domain Names. Where the domain names are so obviously connected to a particular product or service and the registrant is found to have "no connection" to that product or service, "opportunistic bad faith" may be established. See *LACER, S.A. v. Constanti Gomez Marzo*, WIPO Case No. [D2001-0177](#).

For these reasons, the Panel concludes that the Respondent has registered and is using the Disputed Domain Names 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 Names, <instagrammeta.net> and <instagrammeta.org>, be transferred to the Complainant Meta Platforms, Inc.

/Peter Wild/

Peter Wild

Sole Panelist

Date: July 20, 2022