

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Anya Teasomo, Instagram groups
Case No. D2022-3302

1. The Parties

Complainant is Instagram, LLC, United States of America, represented by Tucker Ellis, LLP, United States of America.

Respondent is Anya Teasomo, Instagram groups, United States of America.

2. The Domain Name and Registrar

The disputed domain name <instagramverifying.com> is registered with Register.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2022. On September 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 10, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on September 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2022. Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 6, 2022.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on October 20, 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

Complainant holds many trademark registrations in the United States and worldwide for its INSTAGRAM marks, including for example, United States Trademark Registration Reg. No. 4,146,057 registered May 22, 2012 in International Class 9, with a first use in commerce of October 6, 2010.

The disputed domain name was registered on August 14, 2018.

Separately, Respondent also registered the domain name, <instagramverifygroup.com> on August 14, 2018, which was the subject of a separate UDRP case several months ago. *Instagram, LLC. v. Teasomo, Anya, Instagram geoups*, WIPO Case No. [D2022-0488](#) (panel ordered transfer to Complainant of <instagramverifygroup.com>).

The disputed domain name does not resolve to an active webpage.

5. Parties' Contentions

A. Complainant

Complainant avers that on May 17 and June 16, 2022 Complainant's lawyers by email tried to contact Respondent requesting transfer to Complainant of the disputed domain name. This email on behalf of Complainant followed the transfer order issued by the previous UDRP panel in *Instagram, LLC. v. Teasomo, Anya, Instagram geoups, supra*. Complainant states that no reply was received.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

On the above grounds, Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered or is being used in bad faith.

Complainant must establish these elements even if Respondent does not submit a response. See, e.g., *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#). In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. E.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name <instagramverifying.com> is confusingly similar to Complainant's INSTAGRAM trademarks.

Panels commonly disregard Top Level Domain ("TLD") suffixes in determining whether a disputed domain name is identical or similar to a complainant's marks. See, e.g., *HUK-COBURG haftplicht-Unterstützungs-Kasse kraftfahrender Beamter Deutschlands A.G. v. DOMIBOT (HUK-COBURG-COM-DOM)*, WIPO Case No. [D2006-0439](#); *VAT Holding AG v. Vat.com*, WIPO Case No. [D2000-0607](#); *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#).

Omitting the ".com" TLD, the disputed domain name incorporates the entire INSTAGRAM mark, adding only the term "verifying." The Panel finds that the simple addition of that term does not prevent a finding of confusing similarity. The Panel therefore rules that the disputed domain name is confusingly similar to Complainant's marks. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 1.7 ("[WIPO Overview 3.0](#)") (UDRP panels often determine that disputed domain names are confusingly similar to a complainant's marks where the disputed domain names fully incorporate a complainant's marks).

The Panel concludes that the first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts the Complaint's undisputed allegations that Respondent has no authorization or license to use its trademarks in the disputed domain name. The Panel further accepts the Complaint's allegations that Respondent is not commonly known by the disputed domain name.

Since the record indicates that the disputed domain name does not route to an active webpage, the Panel finds that Respondent is not making a *bona fide* use of the disputed domain name. In light of the Complaint's allegations and the evidence, the Panel holds that Respondent is not making a legitimate or fair use of the disputed domain name.

Complainant establishes a *prima facie* case. Omitting to submit a response, Respondent has neither contested nor rebutted that *prima facie* case.

The Panel holds, therefore, that Respondent has no rights or legitimate interests in use of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel further agrees that the Complaint establishes bad faith registration and bad faith use of the disputed domain name, as elaborated below.

Respondent chose to register a domain name incorporating Complainant's well-known marks, which have been widely used in the United States of America and abroad. It appears beyond dispute that Respondent was aware of Complainant's INSTAGRAM marks and sought to exploit them through registration of confusingly similar disputed domain names, including the disputed domain name in this proceeding. The Panel holds therefore that Respondent registered the disputed domain name in bad faith. *E.g.*, [WIPO Overview 3.0](#), sections 3.2.1 and 3.2.2. Registration of a domain name based on a well-known or famous mark is commonly acknowledged to support a finding of bad faith. *E.g.*, *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co*, WIPO Case No. [D2000-0163](#) ("Bad faith may be found where a domain name is so obviously connected with such a well known product that its very use by someone with no connection with the product suggests opportunistic bad faith.").

In light of the prior UDRP proceeding between the parties referenced above, the Panel also finds that Respondent has engaged in a pattern of domain name registration, aimed at preventing the owner of the trademark from reflecting the mark in a corresponding domain name. This evidences bad faith pursuant to paragraph 4(b)(ii) of the Policy. See *LEGO Juris A/S v. Thomas Ronk, Tandy LLC*, WIPO Case No. [D2022-1284](#) (multiple domain names in proceeding were used and registered in bad faith by Respondent Thomas Ronk, Tandy LLC).

There is also ample cumulative evidence of Respondent's registration and use in bad faith, including (i) Respondent's failure to respond to Complainant's emails requesting transfer; (ii) Respondent's failure to respond to the Complaint; and (iii) the use of false contact data for Respondent's domain name registration.

The Panel holds therefore that Respondent registered and used the disputed domain name in bad faith; thus, establishing the third element under paragraph 4(a) 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 <instagramverifying.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: November 3, 2022