

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Instagram, LLC v. Drew Reynolds Case No. D2022-4060

1. The Parties

The Complainants are Meta Platforms, Inc. and Instagram, LLC, United States of America (“United States”), represented by Tucker Ellis, LLP, United States.

The Respondent is Drew Reynolds, United States.

2. The Domain Names and Registrar

The disputed domain names <facebookgetaways.com>, <facebooktravelers.com>, <instagramhotels.com>, <instagramtravelers.com>, <instagramtrip.com>, and <instagramvacations.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 28, 2022. On October 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 31, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 2, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on November 7, 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 November 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 30, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on December 19, 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 Meta Platforms, Inc. is a multinational technology conglomerate and is the parent company of the entity that operates Facebook. It owns the trademark FACEBOOK. That mark is the subject of registrations in several jurisdictions, including the United States (Reg. No. 3,041,791, registered on January 10, 2006). The Complainant Instagram, LLC operates the social media platform Instagram, and owns the trademark INSTAGRAM, which is registered in a number of jurisdictions, including the United States (Reg. No. 4,146,057, registered on May 22, 2012).

According to the Whois records, the disputed domain names were registered on January 31, 2019. The Respondent appears to be passively holding the disputed domain names. The Complainants assert that all but one of the disputed domain names resolve to an “under construction” webpage, which states that a “site is coming”. The remaining disputed domain name, <instagramtravelers.com>, was previously used to host a commercial website offering travel services unaffiliated with the Complainants and currently redirects to an error message indicating that the website cannot be reached.

5. Parties’ Contentions

A. Complainants

The Complainants contend that the disputed domain names are identical or confusingly similar to the Complainants’ trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

To succeed, the Complainants must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights, (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names, and (iii) the disputed domain names have been registered and are being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Procedural Issue – Consolidation of Multiple Complainants

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.1.

Both the Complainants in this matter have a sufficient common legal interest in the FACEBOOK and INSTAGRAM trademarks included in the disputed domain names to file a joint Complaint.

See *Facebook, Inc. and Instagram, LLC v. Domain Administrator, Fundacion Privacy Services Ltd.*, WIPO Case No. [D2019-2518](#). In addition, the Complainants have been the target of common conduct by the Respondent who has, according to the Complainants, engaged in bad faith registration and use of the disputed domain names comprising the Complainants' trademarks, as discussed in more detail below.

The Panel finds that there is no apparent reason why it would not be equitable and procedurally efficient to permit consolidation, and that the substantive arguments under each of the three elements of the Policy are common to the disputed domain names. Accordingly, consolidation of the two Complainants is proper.

B. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainants have rights in a relevant mark; and second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainants have demonstrated rights in the FACEBOOK and INSTAGRAM marks by providing evidence of their trademark registrations.

Each of the disputed domain names incorporates one of the Complainants' marks in its entirety. The disputed domain names contain various other words, such as "getaways", "hotels", "vacations", "trip", and "travelers". The presence of these other words does not prevent a finding of confusing similarity between the disputed domain names and the Complainants' FACEBOOK and INSTAGRAM marks. See [WIPO Overview 3.0](#), section 1.8. These marks remain sufficiently recognizable for a showing of confusing similarity under the Policy.

The Panel finds that the Complainants have established this first element under the Policy.

C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainants have made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainants make that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainants). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainants assert, among other things, that: (1) the Complainants have neither licensed nor authorized the Respondent to use the Complainants' FACEBOOK mark or INSTAGRAM mark, nor does the Respondent have any legal relationship with the Complainants that would entitle the Respondent to use the FACEBOOK mark or INSTAGRAM mark, (2) the Respondent is not making a *bona fide* offering of goods or services at the disputed domain names, but instead is passively holding them, (3) the Respondent is not commonly known by the disputed domain names – neither the Whois data for the disputed domain names nor the corresponding websites available at the disputed domain names support that the Respondent is known by the domain names, and (4) the Respondent is not making legitimate noncommercial or fair use of the disputed domain names.

The Panel finds that the Complainants have made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing, and nothing in the record otherwise tilts the balance in the Respondent's favor. Accordingly, the Panel finds that the Complainants have established this second element under the Policy.

D. Registered and Used in Bad Faith

Because the Complainants' FACEBOOK and INSTAGRAM marks are well-known, and are registered in jurisdictions around the world, the Panel finds it likely that the Respondent was aware of those marks when it registered the disputed domain names. In the circumstances of this case, without the benefit of any explanation whatsoever from the Respondent as to a possible good faith use of the disputed domain names, such a showing is sufficient to establish bad faith registration of the disputed domain names.

The circumstances also demonstrate bad faith use of the disputed domain names in terms of the Policy. Where a disputed domain name is "so obviously connected with such a well-known name and products...its very use by someone with no connection with the products suggests opportunistic bad faith". See, *Parfums Christian Dior v. Javier Garcia Quintas*, WIPO Case No. [D2000-0226](#). Furthermore, from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)).

The Panel finds that the Complainants have succeeded under this third Policy element.

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 <facebookgetaways.com>, <facebooktravelers.com>, <instagramhotels.com>, <instagramtravelers.com>, <instagramtrip.com>, and <instagramvacations.com> be transferred to the Complainants.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: January 12, 2023