

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Sonia Webster

Case No. D2024-2335

1. The Parties

Complainant is Instagram, LLC, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

Respondent is Sonia Webster, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <snapinsta.tools> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2024. On June 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 10, 2024, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on June 12, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 21, 2024.

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 June 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 15, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on July 29, 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

Complainant, Instagram, LLC (commonly known as "Insta"), is a world-renowned online photo- and video-sharing social-networking service and mobile application. Since its launch in 2010, Complainant has rapidly acquired and developed considerable goodwill and renown worldwide. Acquired by Facebook, Inc. (now Meta Platforms, Inc.) in 2012, today Complainant has more than 2 billion monthly active accounts worldwide.

Complainant has consistently ranked among the top "apps" for mobile devices, including for iOS and Android operating systems. Complainant has been the recipient of numerous awards, including "App of the Year" in 2011 from Apple Inc. Complainant is currently the 2nd most downloaded app worldwide, according to Forbes.

Given the primarily online nature of Complainant's business, Complainant's domain names consisting of its trademarks are not only at the core of its business, but also the way its billions of users enjoy and make use of its services. Complainant is the registrant of numerus domain names consisting of or including INSTAGRAM or INSTA under a wide range of generic Top-Level Domains ("gTLDs") as well as under numerous country-code Top-Level Domains (ccTLDs).

Complainant has also made substantial investments to develop a strong presence online by being active on various social-media platforms, including Facebook, X (formerly Twitter), and LinkedIn. For instance, Instagram's official Facebook page has over 61 million Facebook "likes" and Instagram's official X account has over 33 million followers.

Complainant has secured ownership of numerous trademark registrations for INSTAGRAM and INSTA in many jurisdictions through the world (the "INSTAGRAM and INSTA Marks"), including but not limited to the following:

- United States Registration No. 4146057 INSTAGRAM registered May 22, 2012, International class 9;
- International Registration No. 1129314 INSTAGRAM registered March 15, 2012, International classes 9 and 42; and
- European Union Registration No. 014810535 INSTA registered May 23, 2018, International class 9.

The Disputed Domain Name was registered on March 28, 2023 and resolves to a website which offers a downloader tool for Instagram videos and photos, whilst making prominent use of the INSTAGRAM and INSTA Marks, including a version of Complainant's pictorial logo mark, both on the webpage and in the website favicon.

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to the INSTAGRAM and INSTA Marks. Complainant further contends that the Disputed Domain Name is composed of the INSTA Mark in full, which is preceded by the generic word "snap." Alternatively, it is composed of the first part of the INSTAGRAM Mark "INSTA." However as noted above, Complainant's Instagram app is often referred to as "Insta" for short. Either way, this is not sufficient to dispel the ensuing confusing similarity between Complainant's well-known and distinctive INSTAGRAM and INSTA Marks and the Disputed Domain Name.

Complainant asserts that Respondent has no rights or legitimate interests in the Disputed Domain Name.

Complainant asserts that there is no evidence that Respondent is commonly known by the Disputed Domain Name. Complainant further asserts that Respondent is not a licensee of Complainant and has no authorization to use the INSTAGRAM or INSTA Marks in a domain name, mobile app, website logo or otherwise.

Complainant further asserts that Respondent can have no bona fide or legitimate use if the Disputed Domain Name attempts to impersonate Complainant. Complainant further asserts that Respondent's website content targets Complainant by specifically offering a downloader tool for Instagram videos and photos, whilst making prominent use of the INSTAGRAM and INSTA Marks, including a confusingly similar version of Complainant's pictorial logo marks, both on the webpage and in the website favicon.

Complainant further asserts that Respondent's use of the Disputed Domain Name is in violation of Complainant's Terms of Use and violates the *Oki Data* test, precluding any bona fide or legitimate use.

Complainant alleges that the INSTAGRAM and INSTA Marks are inherently distinctive and well known throughout the world. The INSTAGRAM Mark has been used continuously and extensively since 2010 in connection with Complainant's photo- and video- sharing social network, having rapidly acquired considerable reputation and goodwill worldwide. When Respondent registered the Disputed Domain Name in March 2023, Complaint was, and currently remains, classed 16th in the Interbrand report, making it one of the most famous and recognized brands worldwide. Complainant further alleges that Respondent had actual knowledge of Complainant's trademark rights and intentionally attempted to deceive Internet users.

Complainant further alleges that Respondent is in violation of paragraph 4(b)(iv) of the Policy establishing bad faith.

Complainant states that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the Marks in which Complainant has rights; and,
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and,
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

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 INSTAGRAM and INSTA Marks and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

[WIPO Overview 3.0](#), section 1.2.1 states that registration of the INSTAGRAM and INSTA Marks is *prima facie* evidence of Complainant having enforceable rights.

Complainant has shown rights in respect of the INSTAGRAM and INSTA Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the INSTA Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the INSTA Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term here, “snap,” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the INSTA Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

[WIPO Overview 3.0](#), section 1.11.1 instructs that gTLDs such as (“.tools”) may be disregarded for purposes of assessing confusing similarity.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Policy paragraph 4(c) provides three nonexclusive methods for the panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Marks.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving 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 Respondent. As such, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation, can never confer rights or legitimate interests on Respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 the Disputed Domain Name in bad faith.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the INSTAGRAM and INSTA Marks or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or
- (ii) you [Respondent] have registered the Disputed Domain Name in order to prevent Complainant from reflecting the Marks in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Marks as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product on your website or location.

In the present case, the Panel notes that the Disputed Domain Name resolves to a website which offers a downloader tool for Instagram videos and photos, whilst making prominent use of the INSTAGRAM and INSTA Marks, including a version of Complainant's pictorial logo mark, both on the webpage and in the website favicon.

The Panel finds that Complainant has established the requirements for paragraph 4(b)(iv) of the Policy.

Panel also finds that the Disputed Domain Name has been used for impersonation which constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under paragraph 4(a)(iii) of the Policy.

The Panel finds that 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 Disputed Domain Name <snapinsta.tools> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: August 12, 2024