

## ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. GB Apps, Apps.Pk  
Case No. D2024-2405

### 1. The Parties

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

The Respondent is GB Apps, Apps.Pk, Pakistan.

### 2. The Domain Name and Registrar

The disputed domain name <instagramproapp.com> is registered with Dynadot Inc (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 12, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 2024 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 27, 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 the Respondent of the Complaint, and the proceedings commenced on June 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 18, 2024.

The Center appointed Dietrich Beier as the sole panelist in this matter on July 22, 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

The Complainant, Instagram, LLC, operates a world-renowned online photo- and video-sharing social-networking service and mobile application (Instagram).

The Complainant is the proprietor of several trademark registrations for INSTAGRAM, e.g., United States Trademark Registration No. 4146057, registered on May 22, 2012, in class 9; and International Trademark Registration No. 1129314, registered on March 15, 2012 in classes 9 and 42, all being in effect. The Complainant is also proprietor of several  device marks being color gradient (transitioning from a dark purple and pink to a lighter orange and yellow), such as European Union Trademark Registration No. 015442502 registered on September 21, 2016 in classes 9, 25, 35, 38, 41, 42, and 45, being in effect.

The disputed domain name was registered on October 10, 2023.

The disputed domain name redirected to the website “<https://instapro2apk.com>”, that purports to offer for download an application called “Insta Pro APK”.

The Respondent’s website was entitled “Insta Pro”, and made prominent references to the Complainant’s Instagram trademark, using also a variation of its figurative trademark while displaying such figurative mark. The Respondent’s website made use of the same color gradient used by the Complainant.

The homepage of the Respondent’s website stated:

“Are you using an Instagram app on your smart mobile phone and want to download multiple media with high privacy? ... Through this application [Insta Pro], you can download all images, videos, IGTV videos, stories, and so many other VIP features in one click ... Free to download Instagram Pro ... Insta Pro is an advanced version of the popular social media platform, Instagram, that offers a suite of additional features and tools to help users elevate their online presence and manage their accounts more efficiently.”

The Respondent stated on his website under the disputed domain name that “while the basic version of Instagram is free, Insta Pro may require a subscription or one-time payment to its premium features. Pricing details can be found on the official website or App Store listing”.

The Respondent’s website does not disclose its relationship with the Complainant.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that since its launch in 2010, Instagram has rapidly acquired and developed considerable goodwill and renown worldwide. Acquired by Facebook, Inc. (now Meta Platforms, Inc.) in 2012, today Instagram has more than two billion monthly active accounts worldwide.

Instagram has consistently ranked among the top “apps” for mobile devices, including for iOS and Android operating systems. Instagram was in 2022 the 2nd most downloaded app worldwide, according to Forbes and Apptopia. The Complainant has also made substantial investments to develop a strong presence online by being active on various social-media platforms, including Facebook, Twitter, and LinkedIn. For instance, Instagram’s official Facebook page has over 61 million Facebook “likes” and Instagram’s official Twitter account has over 33 million followers.

The Respondent’s website offers for download an unauthorized modified version of the Complainant’s application.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name reproduces in its entirety the mark INSTAGRAM as protected by the Complainant's trademarks, adding the elements "pro" and "app" which do not prevent a confusing similarity between the disputed domain name and the Complainant's trademarks.

The Complainant has not authorized the use of its trademarks in the disputed domain name or otherwise.

The Complainant and the Complainant's trademarks are so well known that it is inconceivable that the Respondent ignored the Complainant or its earlier rights in the INSTAGRAM mark. Prior UDRP panels have repeatedly recognized the strength and renown of the Complainant's trademark (see *Instagram, LLC v. Contact Privacy Inc. Customer 0159436021 / Emre Onat, AlSancaks*, WIPO Case No. [D2021-2046](#) (<instagram-privacy.com>); *Instagram, LLC v. Sedat Das, Arda Arda, Domain Admin, whoisprotection biz, Domain Admin Domain Admin, whoisprotection biz*, WIPO Case No. [D2016-2382](#) (<instagla.com>, et al.).

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **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 Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the elements "pro" (for "professional") and "app" (for "application") at the end do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has

not rebutted the 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. This is in particular the case since the Complainant did not grant any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the disputed domain name since there is no indication that the Respondent is commonly known by the name "INSTAGRAM" or "INSTAGRAMPROAPP" nor that the Respondent is using the disputed domain name in connection with a bona fide offering of related goods or services.

The Respondent's former use of the disputed domain name to redirect to a website using the Complainant's marks and purportedly offering a non original version of an application not being from the Complainant cannot be considered a bona fide offering of goods and services under the Policy. See also *Instagram, LLC v. dileep Yadav*, WIPO Case No. [D2023-3227](#).

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

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

### **C. Registered and Used in Bad Faith**

Due to the intensive use of the Complainant's marks, being well known at the time of the registration of the disputed domain name, the Panel infers that the Respondent must have been well aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant had not authorised the Respondent to make use of its marks. The Respondent's failure to come forward with any explanation for the registration of the disputed domain name, the use of a privacy service to conceal the Respondent's identity and the content of the website under the disputed domain name indicate that the Respondent targeted the Complainant.

The overall circumstances of this case, inter alia the Respondent's website offers for downloading an unauthorized modified version of the Instagram application and the possibility of "premium features", as well as the reference to the figurative marks of the Complainant on the website, furthermore indicate that the Respondent registered and is using the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

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

### **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 <instagramproapp.com> be transferred to the Complainant.

/Dietrich Beier/

**Dietrich Beier**

Sole Panelist

Date: August 5, 2024