

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. Faizul Aakifa, Boostability Private Limited  
Case No. D2025-0943

### **1. The Parties**

The Complainant is Instagram, LLC, United States of America ("United States"), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Faizul Aakifa, Boostability Private Limited, India.

### **2. The Domain Name and Registrar**

The disputed domain name <instagramdownloader.app> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 7, 2025. On March 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 2025, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on March 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 1, 2025.

The Center appointed Knud Wallberg as the sole panelist in this matter on April 4, 2025. 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 (Instagram), is a world-renowned online photo and video sharing social-networking application. Since its launch in 2010, Instagram has rapidly acquired and developed considerable goodwill and renown worldwide. Acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) in 2012, Instagram today is the world's fastest growing photo and video sharing and editing software and online social network, with more than 2.3 billion monthly active accounts worldwide.

In addition to its strong online presence, the Complainant owns numerous trademarks for INSTAGRAM in many jurisdictions around the world. Such trademark registrations include but are not limited to: United States trademark registration No. 4146057, INSTAGRAM, registered on May 22, 2012, for goods in international class 9; European Union trademark registration No. 14493886, INSTAGRAM, registered on December 24, 2015, for goods and services in international classes 25, 35, 38, 41 and 45, International trademark registration No. 1129314, INSTAGRAM, registered on March 15, 2012, for goods and services in international classes 9 and 42, and Indian trademark registration No. 3042394, INSTAGRAM, registered on August 27, 2015, for goods in international class 9.

The disputed domain name <instagramdownloader.app> was registered on July 19, 2022.

At the time of filing of the Complaint the disputed domain name resolved to a website, which purported to provide a tool to download content from the Instagram platform. The footer of the Respondent's website also features a "downloader" link to another online content platform.

#### **5. Parties' Contentions**

##### **A. Complainant**

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 is confusingly similar to the Complainant's trademark INSTAGRAM, since it comprises the Complainant's INSTAGRAM trademark, followed by the term "downloader", under the generic Top-Level Domain ("gTLD") ".app". The Complainant thus submits that the addition of the term "downloader" to its INSTAGRAM trademark does not prevent a finding of confusing similarity between its trademark and the disputed domain name, just as the gTLD ".app" may be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not a licensee of the Complainant or is affiliated with the Complainant in any way, nor has the Complainant granted any authorization for the Respondent to make use of its INSTAGRAM trademark, in a domain name or otherwise, just as there is no evidence to suggest that the Respondent is commonly known by the disputed domain name, as contemplated by paragraph 4(c)(ii) of the Policy. Furthermore, the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name. The Respondent's repeated use of the Complainant's INSTAGRAM trademark and the use of a modified version of the Complainant's logo and figurative trademark, including as a favicon, as well as an orange/pink color scheme that is very similar to the Complainant's gradient color scheme, the Complainant submits that the Respondent is using the disputed domain name to exploit the goodwill and reputation associated with the Complainant's trade marks by creating a false impression of association with the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's INSTAGRAM trademark is inherently distinctive and well known throughout the

world in connection with its online photo sharing social network, having been continuously and extensively used since its launch in 2010 and the Complainant submits that the Respondent could not legitimately claim that it did not have knowledge of Instagram when registering the disputed domain name in July 2022, by which time Instagram had amassed over 2 billion monthly active users. The Respondent is using the disputed domain name to purport to provide a tool to download content from the Complainant's Instagram platform. Such use of the disputed domain name goes beyond the technical limits placed on the platform by the Complainant, in violation of the Meta Developer Policies. The tool also facilitates breach of the Instagram Terms of Use, as it enables Instagram users to download, store and use for unauthorized purposes the content of third-party Instagram users, which is not permitted by the Instagram Terms of Use. The Complainant points out in this context that prior UDRP panels have held that the unauthorized automated accessing and downloading of content from social networks amounts to bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the 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.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

### **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 or service mark 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.

Although the addition of other terms, here "downloader", 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 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.

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 a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Given the circumstances of the case, in particular the distinctive nature and fame of the Complainant’s INSTAGRAM trademark, the Panel finds that the Respondent has registered the disputed domain name with prior knowledge of the Complainant and the Complainant’s mark.

In the present case, the Panel notes that the Respondent has used the disputed domain name in an attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s web site or location or of a product or service on the Respondent’s web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The fact that use of the disputed domain name does not resolve to an active website at the time of this Decision, does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

Noting that the disputed domain name incorporates a well-known trademark, that the Respondent has failed to participate in these proceedings, that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## **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 <instagramdownloader.app> be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: April 18, 2025