

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. huanxin, li heng  
Case No. D2025-0992

### **1. The Parties**

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

The Respondent is huanxin, li heng, China.

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

The disputed domain name <instagramdownloader.xyz> (the "Disputed Domain Name") is registered with NameSilo, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2025. On March 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 12, 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 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 7, 2025.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on April 14, 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, operates an online photo and video sharing social-networking application under the name INSTAGRAM, which has over 2.4 billion monthly active accounts worldwide.

The Complainant is the holder of trade and service mark registrations across various jurisdictions throughout the world for INSTAGRAM and INSTA, which it uses in connection with its social networking service and mobile application. The Complainant's trademark portfolio includes, inter alia, the following trade and service mark registrations:

- INSTAGRAM, International word mark registered on March 15, 2012, under number 1129314, in classes 9 and 42;
- INSTAGRAM, Chinese word mark registered on June 14, 2013, under number 10614690, in class 42;
- INSTA, Chinese word mark registered on December 14, 2018, under number 28459139, in class 42.

The Disputed Domain Name has been registered on April 1, 2023. According to evidence provided by the Complainant, the Disputed Domain Name used to resolve to a website offering a service purporting to allow users to download content from the Complainant's social media platform. The Disputed Domain Name currently resolves to a blank web page except for the following message: "The content of the page cannot be displayed."

The Complainant sent a cease and desist letter to the Respondent via email on December 9, 2024, and claims it did not receive any response.

#### **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.

First, the Complainant contends that the Disputed Domain Name is confusingly similar to a trademark in which it claims to have rights.

Second, the Complainant claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name as, in summary, according to the Complainant:

- the Respondent is not using the Disputed Domain Name in connection with any bona fide offering of goods or services. The Respondent is not a licensee of the Complainant. The Respondent is not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its INSTAGRAM trademark in a domain name or otherwise. The Respondent provides a service purporting to allow users to download content from the Complainant's social media platform. The Respondent is not a bona fide service provider as it does not provide services for the proper use of the Complainant's product but rather its own services, through a website which does not feature any disclaimer-like wording as to the Respondent's lack of relationship with the Complainant;
- the Respondent is not commonly known by the Disputed Domain Name;
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. In summary, according to the Complainant:

- the Respondent could not credibly argue that it did not have knowledge of the Complainant or its trademark registrations when registering the Disputed Domain Name in April 2023;
- the Respondent's intent to target the Complainant when registering the Disputed Domain Name may be inferred from the content of the Respondent's website, which makes explicit reference to the Complainant's INSTAGRAM and INSTA trademarks;
- the Respondent's failure to respond to the Complainant's cease and desist letter is an additional indication of the Respondent's bad faith;
- prior UDRP panels have held that the unauthorized automated accessing and downloading of content from social networks amounts to bad faith;
- in light of the nature of the Disputed Domain Name, which comprises the Complainant's INSTAGRAM trademark followed by the term "downloader", as well as the use of a purple/blue gradient colour scheme that is very similar to the Complainant's gradient colour scheme, the Respondent has sought to target the Complainant's trademark to create a misleading impression of association with the Complainant;
- the lack of any disclaimer on the Respondent's website to clarify the Respondent's relationship (or lack thereof) with the Complainant further adds to the confusion caused by the use of the Disputed Domain Name and constitutes additional evidence of the Respondent's bad faith conduct. Even if an accurate and prominent disclaimer had been featured on the Respondent's website, it would not have been sufficient to cure the Respondent's illegitimate use of the Disputed Domain Name.

## **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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of trademarks or service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's INSTA and INSTAGRAM marks are reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the marks 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 marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Additionally, it is well established that generic Top-Level Domains ("gTLDs"), here ".xyz", may be disregarded when considering whether a disputed domain name is confusingly similar to a trademark in which a complainant has rights.

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 notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is named “huanxin, li heng”.

Where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1. The Disputed Domain Name incorporates the Complainant’s INSTAGRAM mark in its entirety and simply adds the term “downloader”. The Panel finds that this term can easily be linked to the Complainant’s software application developed and operated under the INSTAGRAM trademark and does nothing to prevent the confusion with the Complainant’s mark. Therefore, the Panel finds that the Disputed Domain Name carries a risk of implied affiliation with the Complainant.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to a disputed domain name and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

Based on the evidence provided by the Complainant, the Panel observes that the Disputed Domain Name referred to a website offering services purporting to allow users to download content from the Complainant’s social media platform. In the Panel’s view and as confirmed by previous UDRP panels, this neither amounts to a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the Disputed Domain Name. See *Instagram, LLC v. sanjana rao*, WIPO Case No. [D2023-1745](#); *Instagram, LLC v. Contact Privacy Inc. Customer 0152196674 / Stefano Scerra*, WIPO Case No. [D2021-1883](#); *Instagram, LLC v. Domains By Proxy, LLC / Ahmed Hemaïd*, WIPO Case No. [D2021-1439](#).

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

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. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In the present case, the Panel finds it inconceivable that the Respondent was unaware of the Complainant and its trademark rights when it registered the Disputed Domain Name:

- the Complainant's INSTAGRAM marks predate the registration of the Disputed Domain Name by approximately a decade, including in China where the Respondent appears to be located;
- the Disputed Domain Name incorporates the Complainant's trademarks in their entirety with the mere addition of a descriptive term which can be easily linked to the Complainant's business;
- the website linked to the Disputed Domain Name appeared to offer services which directly referred to the Complainant's social media platform; and
- the Complainant provided ample evidence of the well-known character and reputation of its INSTAGRAM mark, as also confirmed by previous UDRP panels. See *Instagram, LLC v. Asif Ibrahim, Asif Ibrahim*, WIPO Case No. [D2020-2552](#); *Instagram, LLC v. Fahrettin Turgut and Arif Zihnioglu, Takipcizevki*, WIPO Case No. [D2020-2751](#).

In the Panel's view, the Respondent's awareness of the Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

As mentioned above, the Complainant's evidence shows that the Disputed Domain Name resolved to a website offering services purporting to allow users to download content from the Complainant's social media platform. The website also featured multiple references to the Complainant's INSTAGRAM and INSTA trademarks as well as a purple/blue gradient colour scheme that is very similar to the gradient colour scheme used by the Complainant. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark. [WIPO Overview 3.0](#), section 3.1.4. Previous UDRP panels found (very) similar uses of a domain name to be indicative of bad faith. See *Instagram, LLC v. sanjana rao*, WIPO Case No. [D2023-1745](#); *Instagram, LLC v. Domains By Proxy, LLC / Ahmed Hemaïd*, WIPO Case No. [D2021-1439](#); *Instagram, LLC v. Contact Privacy Inc. Customer 1247361676 / G. J.C.*, WIPO Case No. [D2021-1675](#).

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 totality of the circumstances discussed above, the current state of the Disputed Domain Name referring to a blank web page except for the following message: "The content of the page cannot be displayed", does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Given the nature of the Disputed Domain Name, the Panel finds it difficult to conceive of any future good faith use to which the Disputed Domain Name may be put.

By failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

The Panel finds that the 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 <instagramdownloader.xyz> be transferred to the Complainant.

*/Flip Jan Claude Petillion/*

**Flip Jan Claude Petillion**

Sole Panelist

Date: April 27, 2025