ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Instagram, LLC v. Robert Glogowski
Case No. D2025-1504

1. The Parties

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

Respondent is Robert Glogowski, Czech Republic.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 12, 2025. On April 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 15, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY (DT), Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to Complainant on April 15, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 17, 2025.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on April 22, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 19, 2025.

The Center appointed Marina Perraki as the sole panelist in this matter on May 26, 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

Complainant maintains the online photo- and video-sharing social-networking service and mobile application Instagram. Since its launch in 2010, Instagram has rapidly acquired and developed considerable goodwill 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. It has been the recipient of numerous awards, including "App of the Year" in 2011 from Apple Inc. and is currently the second most downloaded app worldwide, according to Forbes. Instagram's official Facebook page has over 60 million Facebook "likes" and its official X account has over 33 million followers. Complainant's Instagram app is often referred to as "Insta" for short.

Complainant maintains numerous trademark registrations for INSTAGRAM and INSTA, including:

- the United States trademark registration No. 4146057, INSTAGRAM (word), filed on September 19, 2011, and registered on May 22, 2012 for goods in international class 9;
- the United States trademark registration No. 5061916, INSTA (word), filed on May 21, 2015, and registered on October 18, 2016 for goods in international class 9; and
- the European Union trademark registration No. 018359602, INSTA (word), filed on December 21, 2020, and registered on February 9, 2023 for goods and services in international classes 9, 35, 38, 41, 42, and 45.

The Domain Name was registered on December 17, 2023 and prior to filing of the Complaint led to a website (the "Website") offering an unauthorized modified, putative professional, version of Complainant's Instagram platform and mobile app, that Respondent called "Insta Pro APK", whilst making prominent unauthorized use of Complainant's trademark and logo, both on the Website and in Respondent's favicon. Per the Complaint, on the Website it was stated that "it's important to be careful when using the Download Insta Pro APK. This is because it's not officially accepted by Instagram, which means it may convey a security possibility and even lead to your Instagram account getting banned. So, while it offers some great look-ups, it's wise to use it carefully to save your online presence".

Subsequently, at the time of filing of the Complaint, the Domain Name was used to host a pay-per-click ("PPC") parking page with links to various third-party goods and services, such as "Get Instagram Followers" or "Instagram Followers Legit".

The Domain Name currently continues to lead to a PPC parking page which may be blocked for some users by browser and categorized as "spyware/malicious site".

In August and September 2024, Complainant sent cease and desist letters to Respondent via the Registrar's WhoIs contact link to which Respondent did not reply.

5. Parties' Contentions

A. Complainant

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

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered or 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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7.

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 Panel finds the INSTA trademark of Complainant is entirely reproduced within the Domain Name and it is recognizable therein. Accordingly, the 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, "pro" (short for "professional"), the letters "apk" (short for "Android Package Kit"), and the letters "ks", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. WIPO Overview 3.0, section 1.8.

The generic Top-Level Domain ("gTLD") ".com" is also disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (see *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. D2017-0275; *Hay & Robertson InternationalLicensing AG v. C. J. Lovik*, WIPO Case No. D2002-0122).

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 dispute 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

In the present case, the prior use of the Domain Name for a website, offering an unauthorized modified version of Complainant's Instagram app, and displaying Complainant's trademark and logo on the Website, cannot confer rights or legitimate interests on Respondent.

Furthermore, as regards the current parked page with PPC links, the Panel finds that it is not unlikely that Respondent received PPC fees from the linked websites and used the Domain Name for its own commercial gain. The use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links mislead Internet users and trade off the reputation of the complainant's trademark (*Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. D2016-2302; WIPO Overview 3.0, section 2.9).

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.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. Because the INSTA mark had been widely used and registered at the time of the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. D2014-1754; *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. D2000-0226). This is also confirmed by the content of the Website, which targets Complainant's Instagram platform and the nature of the Domain Name which incorporates Complainant's INSTA trademark in its entirety with some of the additional terms, i.e., "pro" and "apk" relating to Complainant's platform.

As regards bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name used to resolve to the Website, which prominently displayed Complainant's registered trademark and logo, thereby giving the false impression that it was authorized or endorsed by Complainant. The Domain Name was therefore used to intentionally create a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation, or endorsement of the Website, possibly for Respondent's commercial gain. This can be used in support of bad faith registration and use (WIPO Overview 3.0, section 3.1.4).

As regards the subsequent use of the Domain Name for a page with PPC links, this suggests that presumably, Respondent has received PPC fees from the linked websites that are listed thereon. It has been recognized that such use of another's trademark to generate revenue from Internet advertising can constitute registration and use in bad faith (*McDonald's Corporation v. ZusCom*, WIPO Case No. D2007-1353; *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No. D2015-0299; *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. D2016-2497; WIPO Overview 3.0, section 3.5).

This, in view of the finding that Respondent has no rights to or legitimate interests in the Domain Name, and in the circumstances of the case, constitutes bad faith (*Aygaz Anonim Şirketi v. Arthur Cain*, WIPO Case No. D2014-1206; WIPO Overview 3.0, section 3.1).

Last, the Panel considers the apparent concealment of the Domain Name holder's identity through use of a privacy shield at the time of filing the Complaint, to be further indicative of bad faith (*BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. D2016-0364).

Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under 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 Domain Name <instaproapkks.com> be transferred to Complainant.

/Marina Perraki/
Marina Perraki
Sole Panelist
Date: June 9, 2025