

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. Nicholas McCooey

Case No. D2025-1528

### **1. The Parties**

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

The Respondent is Nicholas McCooey, United States.

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

The disputed domain name <activeinsta.com> 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 April 15, 2025. On April 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 16, 2025, 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 (Registrant Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication on April 17, 2025, 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 amendment to the Complaint on April 18, 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 the 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. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 13, 2025.

The Center appointed William F. Hamilton as the sole panelist in this matter on May 15, 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 service and mobile application. Instagram is currently one of the most downloaded apps in the world. Instagram has more than two billion monthly active users and was named "App of the Year" in 2011 by Apple.

The Complainant is the registrant of numerous domain names consisting of or including the INSTAGRAM or INSTA trademarks under a wide range of gTLDs and ccTLDs. Instagram's principal website is at the domain name "www.instagram.com".

The Complainant has secured ownership of numerous trademark registrations for INSTAGRAM and INSTA (sometimes collectively referred to herein as the "Marks") in many jurisdictions throughout the world. With respect to the United States, the Complainant owns a registration for the INSTAGRAM trademark in the United States (Reg. No. 4146057), which was registered on May 22, 2012, and a registration for the INSTA trademark (Reg. No. 5,061,916), registered on October 18, 2016, reflecting first use on September 20, 2011.

The disputed domain name was registered on October 5, 2013. It resolves to an active website displaying the Complainant's INSTAGRAM trademark and the Complainant's famous logo  , offering for sale "Real Instagram Followers," "Real Instagram Likes," and related products. The Respondent's website prominently features the Complainant's INSTAGRAM trademark and  logo without any disclaimer as to the Respondent's association or affiliation with the Complainant.

#### **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 its Marks because the Marks are clearly recognizable in the disputed domain name. The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name and that there is no evidence to suggest that the Respondent is commonly known by the disputed domain name. The Complainant contends that the Respondent is neither a licensee of the Complainant, nor affiliated with the Complainant in any manner. The Complainant further asserts that it has not authorized the Respondent to use the Marks. The Complainant also contends that the disputed domain name was registered and used in bad faith, with full knowledge of the Marks, to lure Internet users to the Respondent's website, leading them to believe that the disputed domain name and Respondent's website content is associated with, or sponsored by the Complainant.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 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 to the INSTAGRAM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Marks are recognizable within the disputed domain name. INSTA is the initial component and a principal element of the INSTAGRAM mark. Moreover, the Panel finds that INSTA is a widely recognized abbreviation of the Complainant's INSTAGRAM mark, used colloquially and commercially to refer to the Complainant's services prior to the registration of the disputed domain name. The Panel notes that INSTA has acquired distinctiveness in connection with the Complainant's platform, as reflected in the Complainant's subsequent INSTA trademark registration with a first use in commerce dating back to 2011. UDRP panels have consistently held that the element "INSTA" is widely recognized as an abbreviation of INSTAGRAM. For example, in *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana*, WIPO Case No. [D2022-0250](#), the Panel observed that "Insta" is a well-known and commonly used abbreviation for INSTAGRAM in finding confusing similarity.

Although the addition of the term "active" in the disputed domain name may bear on the assessment of the second and third elements, the Panel finds the addition of "active," a common dictionary term, does not prevent a finding of confusing similarity between the disputed domain name and the INSTAGRAM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Marks for the purposes of the Policy.

## **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 Respondent's unauthorized offering of Instagram-related services – including the sale of followers, likes, and engagement – constitutes a misleading commercial use that does not confer rights or legitimate interests under the Policy. Such use has been rejected by previous UDRP panels.

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

### C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

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 finds that the Respondent was likely aware of the Complainant's well-known INSTAGRAM trademark and its associated goodwill at the time of registering the disputed domain name. The disputed domain name, incorporating the Marks and resolving to a site offering services relating to the Complainant's platform, supports a finding under paragraph 4(b)(iv) of the Policy; namely, that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion as to source, sponsorship, affiliation, or endorsement.

Panels that have considered domain names that make misleading use of the Complainant's Marks to offer "likes" and "followers" on Complainant's platform have uniformly determined that such services constitute bad faith registration and use for the purposes of the Policy. *Instagram, LLC v. Privacy Administrator, Anonymize, Inc. and WhoisGuard Protected, WhoisGuard, Inc. / Kamil Abbasov, AzeriJob LLC / Vien Tran / Modstas Geiga, UAB Modauksa / Yacine Fihri*, WIPO Case No. [D2020-2786](#); *Instagram, LLC v. Rolf Berwers, Namik Hondo, Rolf Rolf*, WIPO Case No. [D2024-3261](#).

The Panel finds on the evidence presented that the disputed domain name was registered and used in bad faith. The Respondent has clearly used the INSTA abbreviation of the Complainant's INSTAGRAM trademark in the disputed domain name to attract Internet visitors to the Respondent's website for commercial gain. It is indisputable that the Respondent has attempted to attract Internet users to the Respondent's website by using the disputed domain name to create a likelihood of confusion that Internet users will believe that the disputed domain name will resolve to a website offering products or services that are sponsored or affiliated with the Complainant.

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 <activeinsta.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: May 29, 2025