

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc., Instagram, LLC v. Domains By Proxy, LLC / Demet asda, Demet Karakus
Case No. D2022-1984

1. The Parties

The Complainants are Meta Platforms, Inc., United States of America (“U.S.”), and Instagram, LLC, U.S. (collectively the “Complainant”), represented by Tucker Ellis, LLP, U.S.

The Respondent is Domains By Proxy, LLC, U.S. / Demet asda, Türkiye and Demet Karakus, Türkiye.

2. The Domain Names and Registrar

The disputed domain names <ig-accountsupports.com>, <ig-portalteam.com>, <instagramtechcenter.com> and <instagramthefacebook.com> are registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 3, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 2022 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 9, 2022.

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 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 8, 2022.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on July 15, 2022. 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 is the world-renowned online photo and video sharing social networking application Instagram.

The Complainant obtained registrations for the trademarks INSTAGRAM, IG, and FACEBOOK in numerous regions of the world, including:

a) INSTAGRAM: U.S. Registration Number 4146057, registered on May 22, 2012; the International Trademark Registration Number 1129314, registered on March 15, 2012;

b) IG: European Union Trade Mark Number 017946393, registered on January 31, 2018; the Indian Trademark Registration Number 4016681, registered on December 4, 2018; and the Australian Trademark Number 1950863, registered on August 24, 2018; and

c) FACEBOOK: U.S. Registration Number 3122052, registered on July 25, 2006; the European Union Trade Mark Number 009151192, registered on December 17, 2010.

The disputed domain names <ig-accountsupports.com>, <ig-portalteam.com>, <instagramtechcenter.com> and <instagramthefacebook.com> were registered respectively on August 29, 2021; September 2, 2021; August 25, 2021; and August 26, 2021.

The Complainant provided evidence that the disputed domain names do not resolve to any active websites. Also, the Panel accessed the disputed domain names on July 28, 2022, at which time the disputed domain name did not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

(i) The disputed domain names are confusingly similar to the Complainant's trademark. Two of the disputed domain names add the phrases "account supports" or "portal team" to the Complainant's IG mark. One of the disputed domain names adds the phrase "tech center" to the Complainant's INSTAGRAM mark, and another disputed domain name merely adds the word "the" between the Complainant's INSTAGRAM and FACEBOOK marks. Further, the presence of hyphens in two of the disputed domain names does not change that these are confusingly similar to the Complainant's INSTAGRAM mark. Numerous prior panels have held that the addition of dictionary terms to a complainant's mark fails to distinguish a domain name from the mark. Moreover, numerous prior panels have held that combining two trademarks in a domain name renders the disputed domain name identical or confusingly similar to the two trademarks at issue. The addition of a gTLD has no distinguishing value in the Policy.

(ii) The Respondent has no legitimate interests in the disputed domain names. Under the Policy, once the complainant asserts a *prima facie* case against the respondent, the respondent bears the burden of production to provide evidence demonstrating that it has rights or legitimate interests in the disputed domain name. Here, the Complainant has neither licensed nor authorized the Respondent to use the Complainant's INSTAGRAM, IG, or FACEBOOK marks, nor does the Respondent have any legal relationship with the Complainant that would entitle the Respondent to use such marks. Furthermore, neither the Whois data for

the disputed domain names nor the corresponding websites available at the disputed domain names support that the Respondent is known by the disputed domain names. Additionally, the Complainant – who monitors use of its marks – is not aware of the Respondent being known by the disputed domain names in any other way. The Respondent has no legitimate reason for using the INSTAGRAM, IG, and/or FACEBOOK marks within the disputed domain names. Non-use or “passive holding” of a domain name is not a use in connection with a *bona fide* offering of goods or services pursuant to Policy. Such non-use is not a legitimate noncommercial or fair use under the Policy. The Respondent is not commonly known by the disputed domain names.

(iii) The Respondent registered and is using the disputed domain names in bad faith. It is well settled that the non-use of a domain name that is confusingly similar to a complainant’s mark constitutes use in bad faith. The Respondent’s bad faith under the Policy is also evidenced by the Respondent’s registration of other domain names which infringed the Complainant’s rights. Because the INSTAGRAM, IG, and FACEBOOK marks are so obviously connected with the Complainant and its well-publicized services and mobile applications, and the disputed domain names clearly reference the marks, the registration and passive holding of the disputed domain names by the Respondent, who has no connection with the Complainant, supports a finding of bad faith under Policy. Lastly, given the fame of the Complainant’s INSTAGRAM, IG, and FACEBOOK marks, and the Respondent’s unauthorized incorporation of these marks into the disputed domain names, there are no circumstances under which the Respondent’s use of the disputed domain names could plausibly be in good faith under the Policy. Moreover, the Respondent has engaged in a bad faith pattern of targeting the Complainant’s trademarks, both in the registration of four disputed domain names in the present case, as well as being involved in at least one prior UDRP case involving the Complainant’s trademarks, where the concerned panel found against the Respondent.¹ Lastly, the Complainant notes the Respondent’s bad faith is further evidenced by the flagging of the disputed domain name <instagramtechcenter.com> as malicious by two third-party security vendors.

B. Respondent

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

6. Discussion and Findings

6.1 Consolidation of domain names in one proceeding

The Complainant made a request for the consolidation of the disputed domain names <ig-accountsupports.com>, <ig-portalteam.com>, <instagramtechcenter.com> and <instagramthefacebook.com> in the same proceeding, despite the fact the Whois database informs variations in the registrant names for some of the disputed domain names. The request for consolidation was not challenged by the Respondent.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2, where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties.

¹ See *Meta Platforms, Inc., Instagram, LLC, WhatsApp, LLC v. Domains By Proxy, LLC / Emir 100k / fdfs dfsds / Instagram help, Instagram Yardim Merkezi / rasimcan yilmaz, serverbutik / mami qwe, sirket, Lara Lala, arda bozkyrt, Abuz Hamal, AbuzMemo Medya, ahmet kaplan, asddasa, adem can, qwe, dusny turker, dakjKJDAKJDKJAS, Kaan Yavuz, aslan sokak, adem kaya, Mdsksndishs dwnsksbe, flores russel, fff ffff, ahmet xd, hestia, Demet Karakus, Kerimhan Duman, Gizem ayyildiz, gurkan kaya*, WIPO Case No. [D2022-0212](#).

The [WIPO Overview 3.0](#) emphasizes that a range of factors – typically present in some combination – are useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of:

- i) the registrants' identity(ies) including pseudonyms;
- ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities;
- iii) relevant IP addresses, name servers, or webhost(s);
- iv) the content or layout of websites corresponding to the disputed domain names;
- v) the nature of the marks at issue;
- vi) any naming patterns in the disputed domain names;
- vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue;
- viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s);
- ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s);
- x) any (prior) pattern of similar respondent behavior; or
- xi) other arguments made by the complainant and/or disclosures by the respondent(s).

In the present case, the disputed domain names have been registered with the same Registrar, share the same email address, share the same phone number, share the same city and country (with slightly-varied false street addresses), share the same first name for all and last name for three (with an apparently false last name for the remaining one), share common name servers, were registered around the same date, and include the Complainant's marks.

Therefore, in light of the evidence brought by the Complainant, the Panel accepts the consolidation request in the present case.

6.2 Merits

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain names, the Complainant shall prove the following three elements:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complaint has evidenced numerous registrations for INSTAGRAM, IG, and FACEBOOK trademarks owned by the Complainant in different parts of the world since at least 2012, 2018, and 2006, respectively.

The trademarks INSTAGRAM, IG, or FACEBOOK are wholly encompassed and recognizable within the disputed domain names.

The disputed domain names differ from the Complainant's trademark by the addition of the terms "-accountsupports", "-portalteam", "techcenter", and "the", as well as of the generic Top-Level Domain ("gTLD") ".com".

Previous UDRP decisions have found that additional terms (such as "-accountsupports", "-portalteam", "techcenter", and "the") do not prevent a finding of confusing similarity, where the relevant trademark remains recognizable within the disputed domain name. This has been held in many UDRP cases (see, [WIPO Overview 3.0](#), section 1.8).

It is also already well established that the addition of a gTLD extension such as ".com" is typically irrelevant when determining whether a domain name is confusingly similar to a complainant's trademark.

As a result, the Panel finds the disputed domain names to be confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate a right or legitimate interest in a domain name:

(i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

Based on the Respondent's default and on the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant has not licensed nor authorized the use of its trademarks to the Respondent, and the Panel finds no indication that the Respondent is commonly known by the disputed domain names.

Actually, the Respondent has not indicated any reason to justify why the specific terms "ig-accountsupports", "ig-portalteam", "instagramtechcenter", and "instagramthefacebook" were chosen to compose the disputed domain names, or provided any evidence of active use of the disputed domain names. In this context, the use of the disputed domain names to resolve to inactive websites cannot qualify as a *bona fide* offering of services nor a legitimate noncommercial or fair use.

Consequently, the Panel is satisfied that the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

Finally, paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

(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 registration 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 documented out-of-pocket costs directly related to the domain name; or

(ii) The respondent 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 online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

When the disputed domain names were registered by the Respondent in 2021, the trademarks INSTAGRAM, IG, and FACEBOOK were already well known and directly connected to the Complainant's photo and video sharing social networking application.

The disputed domain names encompass the trademarks INSTAGRAM, IG, or FACEBOOK. The addition of the terms "-accountsupports", "portalteam", "techcenter", and "the" may even enhance the risk of confusion in the present case, suggesting that the disputed domain name refers to official online channels of the Complainant.

Therefore, the Panel concludes that it is unlikely that the Respondent was not aware of the Complainant's trademarks and that the adoption of the disputed domain name was a mere coincidence.

Currently, no active website is linked to the disputed domain names, but this is not enough to avoid the Panel's findings that the disputed domain names are also being used in bad faith.

In the Panel's view, the circumstances of this case, including:

(a) the Respondent not presently using the disputed domain names;

(b) the Respondent not indicating any intention to use the disputed domain names;

(c) the Respondent not providing justifications for the registration of domain names containing third-party famous trademarks;

(d) the adoption of privacy services when registering the disputed domain names;

(e) the indications of a pattern of trademark abusive domain name registration; and

(f) the lack of any plausible good faith reason for the adoption of the terms "ig-accountsupports", "ig-portalteam", "instagramtechcenter" and "instagramthefacebook" by the Respondent;

are enough in this Panel's view to characterize bad faith registration and use in the present case.

Moreover, the Complainant's evidence that the disputed domain name <instagramtechcenter.com> has been flagged as malicious further supports in inference of bad faith.

Accordingly, the Panel finds that the disputed domain names were registered and are being used in bad faith, and the Complainant has also satisfied 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 names, <ig-accountsupports.com>, <ig-portalteam.com>, <instagramtechcenter.com>, and <instagramthefacebook.com>, be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: July 31, 2022