

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Instagram, LLC v. Eslam Darwish
Case No. D2022-2025

1. The Parties

The Complainant is Meta Platforms, Inc., United States of America (“United States”) and Instagram, LLC, United States, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Eslam Darwish, Egypt.

2. The Domain Name and Registrar

The disputed domain name <meta-instagram.com> (“Disputed Domain Name”) 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 June 3, 2022. On June 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 8, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 9, 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 14, 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 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2022. The Respondent sent several informal emails to the Center on June 9, 2022 and June 15, 2022.

The Center appointed Nicholas Weston as the sole panelist in this matter on July 13, 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, Meta Platforms, Inc., (“Meta”) is a United States social technology company that operates a number of businesses including Facebook, Instagram, Meta Quest (formerly Oculus), Novi, Portal, and WhatsApp. The Complainant, Instagram, LLC (“Instagram”), is a wholly owned subsidiary of Meta, and a well-known online photo and video-sharing social-networking application. Each Complainant holds a portfolio of registrations for their respective trademarks, and variations of them, in numerous countries. An example provided by Meta includes United States Registration No. 5548121 for the mark META, assigned to that Complainant on October 28, 2021. An example provided by Instagram includes United States Registration No. 4,146,057 for the mark INSTAGRAM, registered by that Complainant on May 22, 2012.

The Complainants own numerous domain names that comprise or contain the trademarks META and INSTAGRAM, respectively, including the domain name <meta.com>, and the domain name <instagram.com>.

The Disputed Domain Name <meta-instagram.com> was registered on October 28, 2021. The Disputed Domain Name resolves to an parking page stating that “this domain may be for sale”.

5. Parties’ Contentions

A. Complainant

The Complainant requests to consolidate the Complainant parties in this proceeding on the basis that the Complainant parties have a sufficient common legal interest in the META and INSTAGRAM trademarks included in the Disputed Domain Name to file a joint Complaint.

The Complainant, Meta, cites its trademark registrations including Andorran Trademark Registration No. 43626, registered on January 3, 2022, and other registrations around the world, for the mark META, as *prima facie* evidence of ownership. The Complainant, Instagram, cites its trademark registrations including European Union Trade Mark No. 14493886, registered on December 24, 2015, and other registrations around the world, for the mark INSTAGRAM, as *prima facie* evidence of ownership.

The Complainant submits that the marks META and INSTAGRAM are well known and that their rights in those marks predate the Respondent’s registration of the Disputed Domain Name. The Complainant submits that the Disputed Domain Name is confusingly similar to its trademarks, because the Disputed Domain Name incorporates in its entirety the META trademark and a recognizable misspelling of the INSTAGRAM trademark that omits the first letter “a”, joined by a hyphen, and that the confusing similarity is not removed by the omission of the letter “a”, the hyphen, or the generic Top-Level Domain (“gTLD”) “.com”.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because “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 META or INSTAGRAM trade marks, in a domain name or otherwise” and none of the circumstances set out in paragraph 4(c) of the Policy apply. The Complainant also contends that the “general offer to sell the [Disputed] Domain Name” on the website it resolves to is not use of the Disputed Domain Name in connection with a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and fame of the

Complainant's trademarks, and, it submits, "the Complainant cannot conceive of any good faith use to which the [Disputed] Domain Name could be put by the Respondent that would not carry with it an inherent risk of confusion".

B. Respondent

No formal response has been filed, however, the Panel will in its discretion take into account the Respondent's communications with the Center dated June 9 and June 15, 2022. These emails read as follows:

On June 9, 2022 the Respondent sent emails to the Center that stated:

"I don't understand what to do, I just bought this domain from godaddy.com , and I can't delete it."

Second and third emails on the same date stated "i don't understand what to do, I just bought this domain from godaddy.com , and I can't delete it ,can you explain to me how to transfer or delete this domain because godaddy.com don't allow me to delete it , it says 'This feature is unavailable for this domain because of its status. Requested action is not allowed'".

A fourth email was received from the Respondent on June 9, 2022 that stated "i mean by previous email that I want to transfer the domain to Complainant if they want".

On June 15, 2022 the Respondent sent an email to the Center that stated:

"I want to cancel or transfer the domain to the Complainant".

6. Discussion and Findings

6.1 Preliminary Matter – Consolidation and common control

A complaint is allowed to proceed with multiple complainants against a single respondent where the parties each have standing to file a UDRP complaint. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1 states: "Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

The Panel accordingly concludes that it is fair and equitable for the Complaint to proceed in the name of both Complainants since both Complainants have a common legal interest in the trademark rights on which the Complaint is based and it is procedurally efficient to proceed in a single Complaint.

6.2 Substantive Matters

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

(i) that the Disputed Domain Name 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.

A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the marks META and INSTAGRAM in numerous countries, including the United States. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country (see [WIPO Overview 3.0](#), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the META and INSTAGRAM trademarks, the Panel observes that the Disputed Domain Name is comprised of: (a) “meta”, an exact reproduction of the Complainant’s trademark META; (b) followed by a hyphen; (c) followed by the word “instagram”, a reproduction of the Complainant’s trademark INSTAGRAM with the omission of the first letter “a”; (d) followed by the gTLD “.com”.

It is well established that the gTLD used as part of a domain name is generally disregarded unless the gTLD takes on special significance where it has relevance to the analysis (see *Autodesk v. MumbaiDomains*, WIPO Case No. [D2012-0286](#); *Alstom v. WhoisGuard Protected, WhoisGuard, Inc. / Richard Lopez, Marines Supply Inc.*, WIPO Case No. [D2021-0859](#)). The gTLD chosen appears to have no special significance in this proceeding. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: “meta-instagram”.

As the relevant marks are incorporated in their entirety and/or sufficiently recognizable in the Disputed Domain Name, in line with previous UDRP decisions, this Panel finds the Disputed Domain Name is confusingly similar to the Complainant’s META and INSTAGRAM trademarks for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

Accordingly, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent’s rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Panel finds that the combined term “meta-instagram” has no ordinary meaning other than in connection with the Complainant. Furthermore, there is no indication that the Respondent was commonly known by the term “meta-instagram” prior to registration of the Disputed Domain Name and the Complainant also contends that it has not licensed, permitted, or authorized the Respondent to use the trademarks.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and is making a general offer to sell the Disputed Domain Name, which targets the Complainant’s distinctive META and INSTAGRAM trademarks, thereby seeking to take unfair advantage of the owner’s goodwill and reputation for its own benefit.

On any objective view, the Respondent is not a reseller with a legitimate interest in the Disputed Domain Name incorporating the Complainant’s mark, such that it could meet the tests set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name. The Panel finds that because the Disputed Domain Name consists of the Complainant’s trademarks, one recognizable even with an obvious misspelling, it clearly intends to, and does, play on the Complainant’s trademarks.

Further, the Respondent's use of the Complainant's marks in a general offer to sell does not support a claim of legitimate noncommercial or fair use (see [WIPO Overview 3.0](#), section 2.5.2).

The Respondent did not submit a formal Response and has not come forward with any claims or evidence of rights or legitimate interests in the Disputed Domain Name in its informal communications. The panel infers from the Respondent's communication received on June 15, 2022 stating "I want to cancel or transfer the domain to the Complainant" that it makes no claims or has no evidence of rights or legitimate interests in the Disputed Domain Name.

This Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name and, in the absence of any submissions or evidence to the contrary from the Respondent, the Panel finds for the Complainant on the second element of the Policy.

C. Registered and Used in Bad Faith

The third element of the Policy that the Complainant must also demonstrate is that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the content of the website it resolves to, the Panel is satisfied that the Respondent knew of the Complainant's trademarks META and INSTAGRAM when it registered the Disputed Domain Name (see *Meta Platforms, Inc., Instagram, LLC v. Domains By Proxy, LLC /Tim Ordonez*, WIPO Case No. [D2022-1789](#) ("the Complainants' famous and well-known Marks")).

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's well-known trademarks (see *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#) (which held that the domain name in question was "so obviously connected with the Complainant and its products that its very use by someone with no connection with Complainant suggests opportunistic bad faith").

The diversion of Internet users for commercial gain is also a common example of use in bad faith as referred to in paragraph 4(b)(iv) of the Policy and identified in many previous UDRP decisions (see *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc.*, WIPO Case No. [D2005-0623](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) and *Hoffmann-La Roche Inc. v. Samuel Teodorek*, WIPO Case No. [D2007-1814](#)).

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a domain name (containing the trademark) can indicate bad faith registration (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Respondent registered the Disputed Domain Name about 10 years after the Complainant established trademark rights in the INSTAGRAM mark.

On the issue of use, the evidence is that the Disputed Domain Name resolves to a parking page unconnected with any *bona fide* supply of goods or services by the Respondent that promotes a general offer to sell the Disputed Domain Name. Targeting of this nature is a common example of use in bad faith as referred to in paragraph 4(b) of the Policy and identified in many previous UDRP decisions (see [WIPO Overview 3.0](#), sections 3.1.1, 3.1.4, and 3.2.1).

In the absence of any evidence to the contrary, this Panel finds that the Respondent, who is unaffiliated with the Complainant, has taken the Complainant's widely-known trademarks META and INSTAGRAM and incorporated them in the Disputed Domain Name without the Complainant's consent or authorization, which

supports an inference of bad faith registration and use here. The Respondent's correspondence with the Center does not rebut the inference, requesting as it does, to "cancel or transfer the domain to the Complainant".

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <meta-instagram.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: July 18, 2022