

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Muhammet Can
Case No. D2022-2543

1. The Parties

The Complainant is Instagram, LLC, United States of America (“U.S.”), represented by Tucker Ellis, LLP, U.S.

The Respondent is Muhammet Can, Türkiye.

2. The Domain Names and Registrar

The disputed domain names <us-help-instagram.com> and <us-support-instagram.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 July 12, 2022. On July 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 14, 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 July 15, 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 July 19, 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 July 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 24, 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, Instagram, LLC is one of the world's leading online photo and video sharing social networks. Today, the Complainant has over one billion monthly active users and 500 million daily active users all over the world. The Complainant's website (available at "www.instagram.com") is ranked as the second most downloaded app globally (according to Forbes magazine), and the second most downloaded app in the U.S. (according to Forbes magazine). Currently it is available in over 35 languages. The strength and renown of the Complainant's INSTAGRAM trademark has already been recognized by previous UDRP panels.

The Complainant has proven to be the owner of the INSTAGRAM trademark, which enjoys protection through numerous registrations worldwide.

The Complainant is, *inter alia*, the owner of:

- U.S. trademark INSTAGRAM, registration number 4170675, registered on July 10, 2012 for services in class 42; and
- European Union trademark INSTAGRAM, registration number 012111746, registered on March 6, 2014 for goods and services in classes 9, 38, 41, 42 and 45.
- International trademark INSTAGRAM, registration number 1129314, registered on March 15, 2012 for goods and services in classes 9 and 42.

The disputed domain names were registered on July 9, 2021.

The Complainant's trademark registrations predate the registration of the disputed domain names.

The disputed domain names do not resolve to active websites, and have been flagged by security vendors as malicious and used for phishing.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the INSTAGRAM trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain names, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) The disputed domain names are identical or confusingly similar to a trademark or service mark in which

the Complainant has rights; and

(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 Complainant has established rights in the INSTAGRAM trademark.

The domain names in question add the term “us” and either the word “support” or the word “help” to the Complainant’s INSTAGRAM trademark.

This Panel agrees with the Complainant’s view that the INSTAGRAM trademark is clearly recognizable and that the addition of the other terms do not avoid a finding of confusing similarity.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”. Furthermore, the applicable generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

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

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names. The Respondent does not appear to be commonly known by the name “instagram” or by any similar name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain names, nor any use in connection with a *bona fide* offering of goods or services. The Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain names.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain names were registered and have been used in bad faith.

The INSTAGRAM trademark is a fanciful name with no meaning. It has been registered and used for several years all over the world, it enjoys a widespread reputation and high degree of recognition as a result of its fame and renown and thus the INSTAGRAM mark is not one that traders could legitimately adopt other than for the purpose of creating the impression of an association with the Complainant.

Consequently, the Panel finds that the Respondent knew of the Complainant’s mark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain names.

The Panel also agrees with the Complainant’s assertions that:

- a. the registration of a confusingly similar domain name that is so obviously connected with a particular trademark owner by someone with no connection with the trademark owner suggests bad faith. See *Instagram, LLC v. Asif Ibrahim*, WIPO Case No. [D2020-2552](#), which found that given the extent of use and reputation of the complainant's INSTAGRAM trademark, the respondent could not have been unaware of the fact that the disputed domain name he chose could attract Internet users in a manner that is likely to create confusion for such users; and
- b. the Respondent's knowledge of the Complainant's trademark at the time of registering the disputed domain names and the passive holding of the disputed domain names satisfy the bad faith requirement of paragraph 4(a)(iii)); and
- c. the Respondent's bad faith is also evidenced by the fact that from the documents filed by the Complainant, and not refuted by the Respondent, it appears that the disputed domain names have been flagged by security vendors as malicious and used for phishing.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied 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 names, <us-help-instagram.com> and <us-support-instagram.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: September 5, 2022