

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc., Instagram, LLC v. Ali Samet Demir
Case No. D2022-2983

1. The Parties

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

The Respondent is Ali Samet Demir, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <instagram-meta.com> is registered with ODTÜ Geliştirme Vakfı Bilgi Teknolojileri Sanayi ve Ticaret Anonim Şirketi (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 11, 2022. On August 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 16, 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 August 17, 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 August 22, 2022.

The Center sent an email communication in English and Turkish to the parties on August 17, 2022, regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the disputed domain name is Turkish. The Complainant sent an email to the Center requesting English to be the language of the proceeding on August 17, 2022. The Respondent did not comment on the language of the proceeding.

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 August 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2022. The Response was filed with the Center on September 14, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on September 19, 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 First Complainant is a leading social media technology company. Among others, the First Complainant operates the internationally well-known online platforms and networks Facebook, Instagram, WhatsApp, and Metaverse.

The First Complainant owns various trademark registrations for META, such as the United States Trademark Registration No. 5548121, applied for on December 17, 2015 and registered on August 28, 2018. Its META trademark is widely used by the Complainant and its group members in the United States and internationally (Annex 8 to the Complaint).

The First Complainant further owns various domain names, which comprise its META trademark, such as the sub-domain name <about.facebook.com/meta> (Annex 9 to the Complaint).

The Second Complainant was acquired by the First Complainant in 2012 (Annexes 2 and 11 to the Complaint) and provides online photo and video sharing services. Since 2010, these services are provided through its internationally known and popular online platform, which primarily consists of a mobile application and a website available at <instagram.com> (Annex 10 to the Complaint).

The Second Complainant is the owner of the trademark INSTAGRAM, which is registered in a large number of jurisdictions. For instance, the Second Complainant is the owner of the European Union Trademark Registration No. 014493886 (registered on December 24, 2015), covering trademark protection for various goods and services primarily related to online social networking services (Annex 15 to the Complaint).

The Respondent is reportedly an individual from Türkiye.

The disputed domain name was registered on October 28, 2021. The language of the Registration Agreement is Turkish.

The screenshots, as provided by the Complainants, show that the disputed domain name initially resolved to a website in the English language that offered the disputed domain name for sale (Annex 6 to the Complaint). Meanwhile, the disputed domain name does not resolve to an active website anymore (Annex 16 to the Complaint).

Prior to initiating the present administrative proceeding, the Complainants tried to solve the matter amicably by sending a demand letter to the Respondent on April 13, 2022 (Annex 5 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainants request consolidation of the Complainants and the transfer of the disputed domain name to the First Complainant.

They are of the opinion that the disputed domain name is confusingly similar to their registered INSTAGRAM and META trademarks.

Furthermore, they argue that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent filed a Response on September 14, 2022. In its Response, the Respondent did not challenge the Complainant's contentions. Rather, the Respondent expressly confirmed his willingness to transfer the disputed domain name to the Complainant. For this purpose, the Respondent provided a transfer code for the disputed domain name.

6. Discussion and Findings

6.1. Consolidation of Multiple Complainants

The Complaint contains a request for consolidation of the First and Second Complainant on the basis that they are related companies with a common grievance against the Respondent.

Taking into consideration that the Respondent has not rebutted the requested consolidation, the Panel finds that the Complainants have established a *prima facie* case that the Complaint can be consolidated based on a common grievance and interest of both Complainants, in particular as the Second Complainant is a subsidiary of the First Complainant and both Complainants are affected in their respective trademark rights by the disputed domain name. The Panel is convinced that it is fair and equitable in the circumstances of the case to order the consolidation as requested (see section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

Consequently, the Panel accepts the First and Second Complainant in this administrative proceeding and, for the ease of reference, will jointly refer to them as "the Complainant" in the following, whenever appropriate.

6.2. Language of the Proceeding

The Panel determines in accordance with the Complainant's request and the Rules, paragraph 11(a), that the language of this administrative proceeding shall be English.

Although the language of the Registration Agreement of the disputed domain name is Turkish, the Panel finds that it would be inappropriate, given the circumstances of this case, to conduct the proceeding in Turkish and to request a Turkish translation of the Complaint while the Respondent has failed to raise an objection to the Center's communication about the language of the proceeding, even though communicated in Turkish and English.

The Panel further notes that the Respondent was given the opportunity to respond in Turkish and that this opportunity was used by the Respondent not to challenge the Complainant's contentions but to provide his consent to a transfer of the disputed domain name.

Consequently, the Panel is convinced that the Respondent will not be prejudiced by a decision being rendered in English.

6.3. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Consent to Transfer

The Panel notes that even without a formal settlement between the parties, a consent for the transfer of the disputed domain name by the Respondent can provide sufficient basis for an order for transfer without the need for substantial consideration of the UDRP grounds and the further merits of the case. In view of [WIPO Overview 3.0](#), section 4.10, a panel may “order the requested remedy solely on the basis of such consent”.

In his Response, the Respondent unambiguously expressed his consent to transfer the disputed domain name to the Complainant. The Respondent even provided transfer details to enable the transfer of the disputed domain name.

The Panel finds that the Response by the Respondent to the Center undoubtedly demonstrates his consent to have the disputed domain name transferred.

The fact that no settlement agreement has been concluded between the Parties does, in view of the Panel, not affect the effectiveness of the Respondent’s unilateral consent to the transfer of the disputed domain name.

B. Conclusion

The Panel notes that despite the willingness of the Respondent to transfer the disputed domain name, the Complainant did not request suspension of the proceedings, and hence wished to proceed on the merits of the case, particularly as the Respondent was already given the opportunity to settle the case prior to the administrative proceeding and that meanwhile the Complainant was obliged to incur the costs of filing the Complaint.

As a consequence, the Panel orders the transfer of the disputed domain name based on the Respondent’s consent to transfer and exceptionally renders its Decision in summary form.

But even if the Respondent would not have provided its consent to transfer the disputed domain name, the Panel finds that (without the need to going into details) the disputed domain name is confusingly similar to the Complainant’s trademarks, the Respondent does not have rights or legitimate interests in the disputed domain name, and the disputed domain name was registered and is being used in bad faith, even if it does not resolve to an active website anymore.

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 <instagram-meta.com> be transferred to the First Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: October 3, 2022