

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. jeronie sila, Host Master, 1337 Services LLC  
Case No. D2023-1566

### **1. The Parties**

The Complainant is Instagram, LLC, United States of America, represented by Hogan Lovells (Paris) LLP, France.

The Respondents are jeronie sila, Philippines, and Host Master, 1337 Services LLC, Bahamas.

### **2. The Domain Names and Registrars**

The disputed domain name <installooker.com> is registered with Internet Domain Service BS Corp.

The disputed domain name <installooker.net> is registered with Tucows Inc. (the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2023. On April 11, 2023, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On April 11 and 12, 2023, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names, which differed from the named Respondents (Domain Admin, Whols Privacy Corp., and Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 12, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint or to file a separate complaint for each disputed domain name. The Complainant filed an amended Complaint on April 24, 2023.

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 Respondents of the Complaint, and the proceedings commenced on May 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. The Respondents did not submit any formal response; however, the Center received an informal communication from one of the Respondents on April 25, 2023.

Accordingly, the Center notified the Parties that it will proceed to appoint an Administrative Panel on May 31, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on June 5, 2023. 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 application. Since its launch in 2010, Instagram, commonly known as “Insta”, has rapidly acquired and developed considerable goodwill and renown worldwide. Acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) in 2012, Instagram today is one of the world’s fastest growing photo and video sharing and editing software and online social network, with more than 2 billion monthly active accounts worldwide.

In addition to its strong online presence, the Complainant owns numerous trademarks for INSTA and INSTAGRAM in many jurisdictions around the world. Such trademark registrations include but are not limited to:

- United States trademark registration No. 5061916, INSTA, registered on October 18, 2016, for goods in international class 9;
- European Union Trade Mark registration No. 014810535, INSTA, registered on May 23, 2018, for goods in international class 9;
- United States trademark registration No. 4146057, INSTAGRAM, registered on May 22, 2012, for goods in international class 9;
- European Union Trade Mark registration No. 14493886, INSTAGRAM, registered on December 24, 2015, for goods and services in international classes 25, 35, 38, 41 and 45; and
- International trademark registration No. 1129314, INSTAGRAM, registered on March 15, 2012, for goods and services in international classes 9 and 42.

The disputed domain name <instalooker.com> was registered on November 26, 2015, and the disputed domain name <instalooker.net> was registered on March 25, 2021.

At the time of filing of the Complaint the disputed domain names resolved to websites, which purported to provide a tool to view content from private Instagram profiles.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant submits that the disputed domain names are confusingly similar to the trademarks in which it has rights, since its INSTA trademark is immediately recognizable in the disputed domain names as the leading element, and that the addition of the descriptive term “looker” to the Complainant’s INSTA trademark does not prevent a finding of confusing similarity.

The Complainant further submits that the Respondents have no rights or legitimate interests in the disputed domain names, since the Respondents are unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that might demonstrate their rights or legitimate interests in the disputed domain names.

The Complainant finally submits that the disputed domain names were registered and are being used in bad faith. The Complainant thus submits that the Respondents could not credibly argue that they did not have knowledge of Instagram or its INSTA and INSTAGRAM trademarks when registering the disputed domain

names in 2015 and in 2021, by which time Instagram had amassed over 400 million and 1.2 billion monthly active users respectively. It is also submitted that the Respondents are using the disputed domain names in bad faith to intentionally attract, for commercial gain, Internet users to their websites by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the websites, in accordance with paragraph 4(b)(iv) of the Policy. The disputed domain names are thus used by the Respondents to point to websites, which purport to offer a tool for the unauthorized viewing of content from private Instagram profiles, in violation of the Complainant's Terms of Use and the Meta Developer Policies. Such a tool places the privacy and security of Instagram users at risk, given that such content may be stored and later used for unauthorized purposes by third parties.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Matter: Consolidation**

The Panel must also address a further procedural issue, namely whether to accept in the present procedure that the Complaint against the two distinct Respondents, may be consolidated.

As it is stated in the first paragraph of section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that "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. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". Paragraph two of the section then lists several factors that UDRP panels have considered in determining whether a consolidation is appropriate.

In this case, the two disputed domain names are identical except for the generic Top-Level Domain ("gTLD") part of the domain names, and they have resolved to websites whose content and layout are almost identical. The identified Registrant of the <instalooker.com> domain name sent an informal communication to the WIPO Center, *inter alia*, stating that "I have taken down the website and won't use any trademarks by Instagram in the future. I was simply following a method that was shared online and had not actually considered its cons until I received these emails." The content of the email is very ambiguous, and applying the abovementioned principles to these facts, the Panel finds that the Complainant has established more likely than not that the Respondents are somehow connected to each other, and that the disputed domain names are therefore subject to some kind of common ownership or control.

The Panel further finds that consolidation would be fair and equitable to all parties and procedurally efficient.

The Panel therefore allows the consolidation as requested by the Complainant pursuant to paragraph 10(e) of the Rules.

### **6.2 Substantive Matters of the Complaint**

#### **A. Identical or Confusingly Similar**

The Panel finds that the disputed domain names are confusingly similar (in the sense of the Policy) to the Complainant's registered trademark INSTA.

The disputed domain names comprise the Complainant's INSTA trademark in its entirety together with the term "looker", which does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

## **B. Rights or Legitimate Interests**

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names.

The Respondent has not produced, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy or otherwise that might give rise to rights or legitimate interests in the disputed domain names on the part of the Respondents in these proceedings. Given the incorporation of the Complainant's trademark in its entirety in the disputed domain names, the Respondents clearly intended to create a risk of implied affiliation with the Complainant to mislead unsuspecting Internet users.

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

## **C. Registered and Used in Bad Faith**

Given the circumstances of the case, in particular the distinctive nature of the Complainant's trademark INSTA and the fame of the Complainant's INSTAGRAM trademark, the Panel finds that the Respondents have registered the disputed domain names with prior knowledge of the Complainant and the Complainant's marks.

The Panel therefore finds that the disputed domain names were registered in bad faith.

Given the fact, that at the time of filing of the Complaint the disputed domain names resolved to websites, which purported to provide a tool to view content from private Instagram profiles, the Panel also finds that it is evident that the disputed domain names are used in bad faith and there is clear targeting of the Complainant's trademarks.

Based on the above findings and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## **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, <installooker.com> and <installooker.net>, be transferred to the Complainant.

/Knud Wallberg/

**Knud Wallberg**

Sole Panelist

Date: June 26, 2023