

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc., Instagram, LLC v. Sonia Webster, tan alisa, tencent  
Case No. D2024-0691

### **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 Greenberg Traurig, LLP, United States.

The Respondents are Sonia Webster, United States and tan alisa, tencent, China.

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

The disputed domain name <facebookvideodownloader.org> is registered with Name.com, Inc. (“Registrar 1”). The disputed domain names <fbvideodownloader.app> and <igram.online> are registered with TLD Registrar Solutions Ltd. (“Registrar 2”). Registrar 1 and Registrar 2 are jointly referred to as “Registrars”.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2024. On February 16, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On February 19 and February 20, 2024, 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 (REDACTED FOR PRIVACY, Domain Protection Services, Inc. and Whois Privacy Corp.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 21, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on February 23, 2024.

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 March 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on March 22, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 2, 2024. 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 Complainants are leading providers of online social networking and mobile messaging applications having their FACEBOOK and INSTAGRAM platforms reached, respectively, over 2 billion daily active users on average worldwide and more than 2 billion monthly active accounts worldwide as of October 2023.

The First Complainant is the owner, amongst others, of the following trademark registrations (Annex 15 to the Complaint):

- United States Trademark Registration No. 3,041,791 for FACEBOOK, filed on February 24, 2005, registered on January 10, 2006, subsequently renewed, in classes 35 and 38; and
- United States Trademark Registration No. 4,659,777 for FB, filed on July 14, 2008, registered on December 23, 2014, in class 35.
- The Second Complainant is the owner, amongst others, of the following trademark registrations (Annex 15 to the Complaint):
- United States Trademark Registration No. 4,146,057 for INSTAGRAM, filed on September 19, 2011, registered on May 22, 2012, subsequently renewed, in classes 21, 23, 26, 36 and 38; and
- European Union Trademark Registration No. 015868797 for GRAM, filed on September 28, 2016, registered on January 12, 2017, in class 9; and
- European Union Trademark Registration No. 017946393 for IG, filed on August 23, 2018, registered on January 31, 2019, in classes 9, 42 and 45.

The disputed domain names <facebookvideodownloader.org>, <fbvideodownloader.app> and <igram.online> were registered on March 28, 2023, March 29, 2023 and April 16, 2022, and at time of filing the Complaint, the disputed domain names <facebookvideodownloader.org> and <fbvideodownloader.app> resolved to websites purportedly offering a Facebook video downloader" and the disputed domain name <igram.online> resolved to a website purportedly offering an Instagram downloader. Presently, the disputed domain names redirect the Internet users to "www.snapinsta.tools" where an "online web tool that helps you download Instagram Photos, Videos, Reels and IGTV videos" is offered.

#### **5. Parties' Contentions**

##### **A. Complainants**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants assert to be the world's leading providers of online social networking services and mobile messaging applications, actively promoting and using their FACEBOOK and INSTAGRAM trademarks, as well as the abridged versions thereof FB and INSTA, throughout the world.

The Complainants submit that the disputed domain names are subject to common control by either the same person or connected parties and for reasons of fairness, equity, and efficiency, the Complainants request

consolidation of the multiple Respondents to the same Complaint, given that (i) the disputed domain names <facebookvideodownloader.org> and <igram.online> share the same Google AdSense ID (a unique identifier for an individual's AdSense Account): pub-5705353337004070; (ii) the underlying e-mail addresses disclosed in relation to the disputed domain names <facebookvideodownloader.org> and <igram.online> share a similar naming pattern: "availableonlinepromos@[...].com" and "couponhoneyservice@[...].com", specifically three words, which are related to online advertising, and which have nothing in common with the persons they allegedly belong to, namely Sonia Webster and tan alisa, tecent; (iii) the websites which were associated with all three disputed domain names at the time the Complaint was submitted were very similar in layout and had almost identical content, although <facebookvideodownloader.org> and <fbvideodowloader.app> targeted the First Complainant's famous FACEBOOK trademark and related services, while <igram.online> targeted the Second Complainant's famous INSTAGRAM trademark and related services; and (iv) the Respondents targeted other social medial platforms being involved in other third party content scraping programs, including for example those made available through <ssstiktok.tools>, <ttdownloader.app>, <tiktok-downloader.cc>, <pinterestvideodownloader.tools>, <redditsave.tools>, <savetik.org>, and <twitterdownloader.me>.

The first disputed domain name, <facebookvideodownloader.org> as well as the second disputed domain name, <fbvideodownloader.app> are, according to the Complainants, confusingly similar to the first Complainant's FACEBOOK and FB trademarks, given that these trademarks reproduced in them with the addition of the terms "video" and "downloader" which is insufficient to distinguish the disputed domain names from the first Complainant's trademarks. In addition to that, the first disputed domain name resolves to a website which purports to provide a tool to download content from the Facebook platform, thus the Respondents targeted the first Complainant's trademark.

The third disputed domain name, <igram.online>, is, according to the Complainants, confusingly similar to the second Complainant's trademarks, given that its GRAM and IG trademarks are reproduced in it. In addition to that, the third disputed domain name resolved at the time of the filing of the Complaint to a website which made extensive reference to the Second Complainant's INSTAGRAM trademark, also using a logo that closely resembled the Second Complainant's INSTAGRAM logo.

Moreover, the Complainants assert that the Respondents have no rights or legitimate interests in respect of the disputed domain names given that:

- (a) the Respondents are not licensees of the Complainants, nor have they been otherwise allowed by the Complainants to make any use of the FACEBOOK, FB, INSTAGRAM, IG or GRAM trademarks, in domain names or otherwise;
- (b) the Respondents cannot assert that they are using, or have made demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy, given that the tools offered on the Respondents' websites are in breach of the Complainants' Developer Policies, as the creation of such tools that facilitates the downloading of content from the Facebook or Instagram platforms goes beyond the limits that the Complainants have placed on the functionality of their own products, also placing the privacy and security of Facebook and Instagram users at risk;
- (c) the Respondents are not commonly known by the disputed domain names nor have they acquired any rights over the such terms; and
- (d) the obvious connection between the disputed domain names and the Complainants' trademarks suggests opportunistic bad faith on the part of the Respondents who registered the disputed domain names with the intention of exploiting and profiting from the Complainants' trademark rights.

As to the registration of the disputed domain names in bad faith the Complainants assert that the Respondents knew or should have known of the Complainants' trademark rights at the time of the

registration of the disputed domain names considering that the FACEBOOK, FB and IG trademarks are well known throughout the world in relation with the Complainants' social networks and messaging applications. In fact, the Complainants argue that the Respondents' intent to target the Complainants when registering the disputed domain names may be inferred from the contents of the websites to which the disputed domain names resolved when the Complaint was filed, which made explicit reference to the Facebook and Instagram platforms and made prominent use of the Complainants' trademarks.

The Complainants further submit that the Respondents have taken steps to set up websites providing tools for downloading content from the Facebook and Instagram platforms, in violation of the Complainants' Developer Policies, also having retained privacy protection services which are further indicatives of the Respondents' bad faith.

Thus, according to the Complainants, the Respondents are unfairly seeking to capitalize on the goodwill and fame of the Complainants' trademarks by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of its website, making Internet users believe that the websites are associated, endorsed, or recommended by the Complainants, which is not true.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1. Procedural Matter - Consolidation of Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states 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 addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that: (i) all disputed domain names are being presently redirected to "snapinsta.tools" where an "online web tool that helps you download Instagram Photos, Videos, Reels and IGTV videos" is offered; (ii) at the time of filing the Complaint, all the disputed domain names resolved to websites purportedly offering the Complainant's application via downloadable content (iii) were registered within a relatively short period of time; (iv) the first and second disputed domain names share the same Google AdSense ID; (v) sharing a similar naming pattern and (vi) similarly false contact details.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants in a single proceeding.

## 6.2. Substantive Matter

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainants:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondents have 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.

The Complainants must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainants have shown rights in respect of trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the FACEBOOK, FB and IG or GRAM marks is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms ("video" and "downloader") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

In the present case, the Respondents use the disputed domain names purportedly offering services in connection with the Complainants platforms, without any explanation of the lack of relationship between the Parties, in breach of the Complainants' Developer Policies, as well as placing the privacy and security of Facebook and Instagram users at risk, cannot be considered a bona fide offering of goods or services.

In addition to that, the absence of any indication that the Respondents have been commonly known by the disputed domain names, or that they have acquired any registered trademarks or trade names corresponding to the disputed domain names, as well as the Complainants' statement that no authorization,

license or permission had been given for the Respondents to register and use the disputed domain names corroborate the indication of the Respondents' lack of rights or legitimate interests in the disputed domain names.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondents do not have rights or legitimate interests with respect to the disputed domain names.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the use made of the disputed domain names characterizes the Respondents' intent of commercial gain by misleadingly diverting the Complainants' consumers or merely profiting from revenues and or data that solely will be accessible for them in view of the association with the Complainants' notorious trademarks.

Such use, in this Panel's view, constitute an attempt to profit from the fame and goodwill associated with the Complainants' famous trademarks, thus unfairly capitalizing on the FACEBOOK, FB and IG or GRAM trademarks by creating a likelihood of confusion in Internet users who are likely to believe that the disputed domain names are either connected, endorsed, or authorized by the Complainants.

Two other relevant factors corroborate the finding of the Respondents' bad faith conduct in this case: the retention of a privacy protection services as well as the indication of false or incomplete contact details by the Respondent when registering the disputed domain name.

For the reasons above, the Panel finds that the Respondents' conduct amounts to bad faith registration and use of the disputed domain names pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established 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 <facebookvideodownloader.org>, <fbvideodownloader.app> and <igram.online> be transferred to the Complainants.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: April 16, 2024