

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. Malika BZDRR  
Case No. D2024-2887

### **1. The Parties**

The Complainant is Instagram, LLC, United States of America (“USA”), represented by Greenberg Traurig, LLP, USA.

The Respondent is Malika BZDRR, Pakistan.

### **2. The Domain Name and Registrar**

The disputed domain name <downloadvideoinstagram.net> is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 2024, 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 (Redacted for Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 23, 2024, 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 26, 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 Respondent of the Complaint, and the proceedings commenced on July 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on September 17, 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 Complainant operates a world-renowned online photo-and video sharing social-networking service and mobile application by the name of INSTAGRAM. It was launched in 2010 and was acquired by Facebook, Inc. (now Meta Platforms, Inc) in 2012. In 2022, the Complainant's INSTAGRAM application was the second most downloaded app worldwide with 548 million installations globally. Nowadays, the Complainant has more than 2 billion monthly active accounts worldwide (Annex 5 of the Complaint).

The Complainant owns, amongst others, the following trademarks (Annex 8 of the Complaint):

- International ("IR") trademark registration no. 1129314 for INSTAGRAM (word), registered on March 15, 2012, for goods and services in Classes 9 and 42, with designations to Australia, Switzerland, the European Union ("EU"), Israel, Japan, the Republic of Korea, Norway, Singapore, and Türkiye;
- EU trademark registration no. 015442502 (trademark without text) "camera device with gradient colour scheme", registered on September 21, 2016, for goods and services in Classes 9, 25, 35, 38, 41, 42, and 45;
- USA trademark registration no. 4146057 for INSTAGRAM (word), registered on May 22, 2012, for goods in Class 9.

The Complainant owns numerous domain names consisting of or comprising the term "instagram", including <instagram.com> (Annexes 4 and 6 of the Complaint).

The disputed domain name was registered on November 18, 2023. It redirects to the domain name <storysaver.net.in> which resolves to a website essentially offering a so-called Story Saver download tool to download content from the Complainant's INSTAGRAM application (Annex 10 of the Complaint).

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that it owns trademark registrations for INSTAGRAM and has therefore established trademark rights. The disputed domain name comprises its INSTAGRAM trademark in its entirety. According to the Complainant, generic words "download" and "video" are related to the Complainant's social media platform. The trademark INSTAGRAM is therefore recognizable within the disputed domain name. Accordingly, there is confusing similarity. The Top-Level Domain ("TLD") ".net" may, so the Complainant says, be disregarded for the assessment on confusing similarity as it is a standard registration requirement.

On the second element, the Complainant claims that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent has no rights in the relevant marks, nor has the Complainant authorized the Respondent to use them. There is no evidence that the Respondent is commonly known by the disputed domain name. The Complainant also states that the Respondent has not acquired, or applied for trademark registration for "Download Video Instagram", nor any variation that is reflected as the disputed domain name (Annex 9 to the Complaint). The Respondent is using the disputed domain name to redirect to the domain name <storysaver.net.in> where, so the Complainant submits, the Respondent is making prolific use of the Complainant's INSTAGRAM trademark,

the same gradient color scheme as in the Complainant's application and logo INSTAGRAM (Annex 10 of the Complaint) suggesting affiliation with the Complainant. In addition, the website displays, so the Complainant submits, numerous pay-per-click ("PPC") advertisements and purports to offer a download tool called "Story Saver" to download photos and videos from Instagram user profiles. For these types of services, according to the Complainant, none of the Oki Data criteria as per WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.8, under which a bona fide offering might be given, are present in the case at hand. In particular, the Respondent is not providing services for the proper use of the Complainant's product, but, in contrast, purports to provide an unauthorized Instagram downloader tool. This tool, says the Complainant, violates the Complainant's terms of use (Annexes 11, 12 and 13 to the Complaint) and such facilitating of data harvesting puts the security and privacy of Instagram users at risk. Accordingly, so the Complainant concludes, there is no bona fide use of the disputed domain name.

On the third element, the Complainant submits that the Respondent has registered and is using the disputed domain name in bad faith. As to registration in bad faith, the Complainant claims that its INSTAGRAM trademark is inherently distinctive and has become well-known throughout the world through continuous and extensive use since its launch in 2010 (Annex 5 to the Complaint). This is also evidenced by the numerous cybersquatters seeking to exploit the trademark, for which the Complainant provides extensive case law. Accordingly, the Respondent had the Complainant in mind when registering the disputed domain name. As to use in bad faith the disputed domain name redirects to another domain name <storysaver.net.in> which, according to the Complainant, copies the visual properties associated with the Complainant and excessively uses the INSTAGRAM trademark, thus exploiting the Complainant's trademark to lure Internet users to its website and making them believe there is a sponsorship or affiliation with the Complainant. In addition, according to the Complainant, the Respondent's website is replete with PPC advertisements associated with Google AdSense ID Pub-7394372909608879, which are third party services targeting Complainant, like "Private Instagram Story Viewer", "Private Instagram Viewer", "Private Instagram profile Viewer". Respondent's website also purports to offer a downloader tool called "Story Saver", allegedly to be used to download photos, stories, reels and videos taken from Instagram user profiles. Finally, the Respondent's use of a proxy service and failure to answer to a preprocedural warning underline, so the Complainant claims, the Respondent's bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. In particular, it has shown rights in the term INSTAGRAM.

The entirety of the Complainant's trademark is reproduced within the disputed domain name. In addition, the Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#)", section 1.7.

Although the addition of other terms, here "downloadvideo", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#),

section 1.8.

Consequently, the Panel finds that 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent has intentionally combined the Complainant’s trademark with terms descriptive of the Complainant’s audio-visual services, namely “download” and “video”, in order to mislead Internet users as to an implied affiliation of the disputed domain name to the Complainant. Such composition cannot constitute fair use under the circumstances here. [WIPO Overview 3.0](#), section 2.5.1.

In particular, the Panel agrees with earlier panel views that the use of a disputed domain name for a website falsely suggesting affiliation with the trademark owner and offering unauthorized downloading from the the Complainant’s application cannot constitute any legitimate or fair use. *Meta Platforms, Inc. v. Muhammad Shahbaz*, WIPO Case No. [D2024-0288](#). Moreover, the use of the confusingly similar disputed domain name to host PPC links cannot constitute fair use given that the Respondent is capitalizing on the reputation of the Complainant’s trademark.

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 Respondent has purportedly used the disputed domain name to offer a tool for downloading content from the Complainant’s platform, presenting such content on a website prolifically using the INSTAGRAM trademark, logo, and colour scheme, while also hosting PPC advertisements. Such use is prima facie bad faith given that the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website for the Respondent’s likely commercial gain.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. In assessing this, the Panel notes the composition of the disputed domain name, consisting of the Complainant's trademark and a descriptive term, as well as the clear targeting of the Complainant's trademark via the disputed domain name's similar color scheme and use of the Complainant's brand name on the website, all of which falsely suggest an affiliation with the Complainant. Panels have held that the use of a domain name for illegal activity, here impersonation/passing off as the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 name <downloadvideoinstagram.net> be transferred to the Complainant.

*/Andrea Jaeger-Lenz/*

**Andrea Jaeger-Lenz**

Sole Panelist

Date: October 1, 2024