

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Faheem Lashari
Case No. D2024-2912

1. The Parties

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

The Respondent is Faheem Lashari, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <snapinstagram.net> (the “Domain Name”) 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 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 18, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY) 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 amendment to the Complaint on July 25, 2024.

The Center verified that the Complaint together with the amendment to the 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 August 21, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on September 11, 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 is a United States company established in 2010 that operates a well-known social media network under the trademark INSTAGRAM (the “INSTAGRAM Mark”), that specialises in online photo and video sharing. The Complainant’s Instagram product was launched in 2010 and has more than 2 billion monthly active accounts. Its Instagram app is the second most downloaded app worldwide.

The Complainant is the owner of a trademark registration in the United States (and other jurisdictions) for the INSTAGRAM Mark (No. 4146057 registered on May 22, 2012, for downloadable computer software in class 9).

The Domain Name was registered on February 18, 2024. The Domain Name resolves to a website (the “Respondent’s Website”) that reproduces the INSTAGRAM mark. At the Respondent’s Website, the Respondent purports to offer services and/or a web application allowing viewers to download Instagram content and the contents of other third party social-media platforms.

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 Domain Name.

Notably, the Complainant contends:

- (i) that the Domain Name is confusingly similar to the Complainant’s INSTAGRAM Mark as it consists of the INSTAGRAM Mark in its entirety with the addition of the descriptive term “snap”;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name. The Respondent is not commonly known by the Domain Name, nor has it conducted a legitimate business under the Domain Name. The Complainant has not authorized or licensed the Respondent to use the INSTAGRAM Mark. There is no noncommercial use of the Domain Name. The use of the Domain Name to purport to offer a service allowing viewers to download content from the social media platforms including the Instagram site involves the Respondent engaging in conduct that is against the Instagram terms of service and misleadingly represents that the Respondent is associated with the Complainant in some way. Such a use is not bona fide; and
- (iii) that the Domain Name has been registered and is being used in bad faith. Given the reputation of the Complainant’s well-known INSTAGRAM Mark and the use to which the Domain Name has been put, it is inconceivable that the Respondent registered the Domain Name unaware of the Complainant’s rights. The Domain Name resolves to a website which purports to offer services that involve circumventing the Complainant’s terms of service and putting the privacy and security of the Complainant’s users at risk. This conduct amounts to registration and use of the Domain Name in 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 Domain Name. [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.

The entirety of the mark is reproduced within the Domain Name. Accordingly, the 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, "snap" may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the Domain Name and the mark 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.

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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

It appears from the evidence submitted by the Complainant that the Respondent has used the Domain Name to operate a website that purports to be associated with the Complainant and purports to allow users to download and access material from the social media platforms including the Complainant's Instagram platform. Such conduct is not a bona fide offering of goods or services or legitimate noncommercial fair use.

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.

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.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent is using the Domain Name for a website purporting to offer services that involve unauthorized and automated accessing and downloading of content from social media platforms particularly from the Complainant's Instagram platform. In the Panel's view, the Respondent clearly had the Complainant and its marks in mind at the time of registration and that it has registered and used the Domain Name in order to target the Complainant and its well-known mark within the meaning of paragraph 4(b)(iv) of the Policy.

The Panel finds that the Respondent has registered and is using the Domain Name in bad faith.

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 Domain Name <snapinstagram.net> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: September 12, 2024