

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc., Instagram, LLC v. Host Master, 1337 Services LLC
Case No. D2024-2997

1. The Parties

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

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Names and Registrar

The disputed domain names <fbreelsdownloader.com> and <reelsdownloader.co> (the “Domain Names”) are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2024. On July 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On July 24, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names 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 28, 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 31, 2024.

The Center verified that the Complaint [together with the amendment to the Complaint/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 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 28, 2024.

The Center appointed Wolter Wefers Bettink 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 social technology company which operates, inter alia, the Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp platforms and services. Facebook is a provider of online social media and social networking services and had approximately 3.07 billion monthly active users and 2.11 billion daily active users worldwide (status December 31, 2023). Instagram is a photo- and video-sharing and editing software and online social network, with more than 2.4 billion monthly active accounts worldwide (presumably also at December 31, 2023). Instagram and Facebook provide “Reels”, a video-music feature, which is available for use in over 150 countries around the world (presumably also at December 31, 2023).

The Complainant holds a number of trade mark registrations including the following (hereafter the “Trade Marks”):

- United States Trademark Registration No. 3041791 FACEBOOK registered on January 10, 2006;
- European Union Trade Mark No. 005585518 FACEBOOK registered on May 25, 2011;
- European Union Trade Mark No. 008981383 FB registered on August 23, 2011;
- United States Trademark Registration No. 4659777 FB registered on December 23, 2014;
- United States Trademark Registration No. 4146057 INSTAGRAM registered on May 22, 2012;
- European Union Trade Mark No. 014493886 INSTAGRAM registered on December 24, 2015;
- European Union Trade Mark No. 018355171 REELS registered on March 17, 2021;
- United States Trademark Registration No. 7115738 REELS registered on July 18, 2023.

The Domain Name <fbreelsdownloader.com> was registered on July 25, 2023. The Domain Name <reelsdownloader.co> was registered on June 16, 2023.

The Domain Names resolve to a website (the “Website”) that purports to offer downloader tools that enable Internet users to download content from the Complainant’s Instagram and Facebook platforms.

The Website features the following wording:

“[The Website] is a fast and free online tool that enables you to download Instagram reels videos or save them to your device. You can store any reels videos on your phone or computer and watch them offline whenever you like.”

“[The Website] now provides a free tool for downloading Facebook Reels videos and Shorts online. It’s a fast and convenient way to save Facebook Reels and Shortsvideos for offline viewing. Our Facebook downloader is compatible with various devices, including Android, PC, and iOS devices.”

At the bottom of each page of the Website the following wording is found:

“It’s important to note that downloading content from Instagram without the owner’s permission may violate the platform’s terms of service. Only download content that you have permission to use or that is available under a Creative Commons license.”

And:

“If you’re traveling to Delhi to create Instagram content and want to explore Delhi metro, consider using DelhiMetro.live to find Delhi metro routes and fares.”

Below that each page contains the following disclaimer:

"[The Website] is not affiliated with Instagram and not we host any of media on our servers all the media content is delivered through its original source and belongs to their respective owners."

And further down, each page provides:

"Made with [image of a blue heart] in India" and "© [The Website]".

On June 19, 2024 the Complainant's lawyers sent a cease and desist letter to the Respondent to the email address contained on the Website. The Complainant did not receive a response from the Respondent.

5. Parties' Contentions

A. Complainant

Consolidation of Complainant

The Complainant requests consolidation of the Complainant, pointing out that neither the Policy nor the Rules expressly provides for or prohibits the consolidation of multiple complainants. According to the Complainant, Meta and its wholly-owned subsidiary Instagram have a sufficient common legal interest in the FB and REELS trade marks included in the Domain Names to file a joint Complaint. In addition, the Complainant submits, Meta and Instagram have been the target of common conduct by the Respondent, who has engaged in bad faith registration and use of the Domain Names comprising the Trade Marks. As detailed below, the Respondent is using the Domain Names to resolve to the same website at <https://reelsdownloader.co/> that purports to offer downloader tools that enable Internet users to download content from the Complainant's Instagram and Facebook platforms.

The Complainant further notes that there is no apparent reason why it would not be equitable and procedurally efficient to permit consolidation, and that many of the substantive arguments under each of the three elements of the Policy are common to the Domain Names. The Complainant concludes that to permit the consolidation of a single Complaint against the Respondent would be appropriate in the present proceeding and would not have any unfairly prejudicial effect on the Respondent.

Consolidation of Respondent

The Complainant requests consolidation of the Respondent in accordance with Paragraph 3(c) of the Rules which provides 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 the present case, the following factors in the Complainant's view support an inference that the Domain Names are subject to common control:

- a. Both Domain Names resolve to the same website that purports to offer downloader tools that enable Internet users to download content from the Complainant's Instagram and Facebook platforms.
- b. Both Domain Names target the Trade Marks. More specifically, the Domain Names have a similar composition as they both contain the Complainant's REELS Trade Mark followed by the term "downloader".
- c. The Domain Names were registered less than two months apart.
- d. The services of the same entities, Tucows and Njalla, were used to register both Domain Names.

According to the Complainant the combination of the above factors justifies the filing of a single Complaint for the Domain Names. Conversely, to require the Complainant to submit separate Complaints would cause the Complainant to incur substantial additional time and costs, running contrary to the aim of the Policy of providing a time- and cost-effective means of resolving instances of abusive domain name registration and use.

For the reasons set out above, the Complainant requests consolidation of the present dispute.

Grounds for Complaint

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name, on the following grounds.

The Domain Name incorporates the FB and REELS Trade Marks with the addition of the descriptive element “downloader” which refers to the characteristics of the tools on the Website. As the Trade Marks are recognizable within the Domain Names, they are confusingly similar to the Trade Marks. The addition of the term “downloader” does not prevent a finding of confusing similarity between the Trade Marks and the Domain Names. The generic Top Level Domain (“gTLD”) “.com” and the country code Top Level Domain (“ccTLD”) “.co” (Colombia) may be disregarded for the purposes of assessing confusing similarity as they are a standard requirement of registration.

The Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the Domain Names.

The Respondent is not a licensee of the Complainant and is not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its FB and REELS Trade Marks, in a domain name or otherwise. The Website purports to offer a tool that enables Internet users to download video content from Facebook and Instagram. As set out in *Okidata Americas, Inc. v. ASD, Inc.* (WIPO Case No. [D2001-0903](#)), service providers using a domain name that contains a third-party trade mark may be making a bona fide offering of goods or services and thus have a legitimate interest in such domain name if they meet the following criteria (the “Okidata criteria”):

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trade marked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trade mark holder; and
- (iv) the respondent must not try to “corner the market” in domain names that reflect the trade mark.

If one is to apply the *Okidata* criteria, the Respondent fails to fulfill the first and the third *Okidata* criteria, as follows:

(i) The Respondent is not a bona fide service provider as it is not providing services for the proper use of the Complainant’s product. Rather, the Respondent’s Website purports to provide an unauthorized Facebook and Instagram downloader tool, which may put the privacy and security of Instagram and Facebook users at risk, as content scraped from the Facebook and Instagram platforms may be stored and used for unauthorised purposes by third parties.

(ii) the Website does not feature a clearly visible disclaimer and so neither accurately nor prominently discloses the Respondent’s lack of relationship with the Complainant. In fact, by featuring the copyright notice “© 2020-2024 ReelsDownloader.co” as well as the Facebook and Instagram Trade Marks, the Website suggests that the Respondent is affiliated with the Complainant, which is not the case.

The Respondent is therefore not using the Domain Names in connection with a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

There is no evidence to suggest that the Respondent is commonly known by the Domain Names, as contemplated by paragraph 4(c)(ii) of the Policy. The Respondent's details in the Whois record are masked for privacy reasons. As such, the identity of the underlying registrant is unknown. To the best of the Complainant's knowledge, there is no evidence of the Respondent having acquired or applied for any trade mark registrations for FB or REELS or any variation thereof, as reflected in the Domain Names. Nor does the Respondent's use of the Domain Names support any legitimate claim of the Respondent being commonly known by the Domain Names within the meaning of the Policy.

Nor is the Respondent currently making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers within the meaning of paragraph 4(c)(iii) of the Policy. The use of the Domain Names to offer tools to download content from the Complainant's platforms does not constitute legitimate or fair use of the Domain Names, as downloading would breach Meta's Meta Terms of Service and the Meta Developer Policies and use thereof may place the privacy and security of Facebook and Instagram users at risk as the downloaded content may be stored and later used for unauthorized purposes by third parties.

For the foregoing reasons, the Complainant submits that it has established a prima facie showing that the Respondent lacks rights or legitimate interests in the Domain Names. Accordingly, the burden of production shifts to the Respondent to come forward with evidence to rebut the Complainant's case. In the absence of such evidence, the Complainant may be deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy.

The Domain Names were registered and are being used in bad faith, pursuant to paragraph 4(b)(iv) of the Policy, as well as for reasons that go beyond the non-exhaustive list of circumstances set out in paragraph 4(b) of the Policy.

The Trade Marks are well known throughout the world in connection with the Complainant's online social network platforms Facebook and Instagram. Moreover, the Respondent's intent to target the Complainant when registering the Domain Names may be inferred from the content of the Website, which makes explicit reference to the Complainant's Facebook and Instagram platforms and features the white and blue colour scheme characteristic for the Facebook platform. The Respondent is using the Domain Names to resolve to a website that purports to provide a tool for the unauthorized downloading of content from Facebook and Instagram. The Respondent's registration of the Domain Names, targeting the Trade Marks is further evidence of registration in bad faith under the Policy.

Use of the tools provided via the Website would violate Meta's Meta Terms of Service and the Meta Developer Policies, while such use may place the privacy and security of Facebook and Instagram users at risk, as set out above. In addition, the fact that the Website displays the advertisement wording, cited above, from which the Respondent is likely obtaining financial gain, shows that the Respondent's use of the Domain Names is clearly intended for commercial gain and therefore constitutes additional evidence of bad faith use.

Also, by using the Domain Names the Respondent has intentionally attempted to attract Internet users to the Website by creating a likelihood of confusion with the Trade Marks as to the source, sponsorship, affiliation or endorsement of the Website, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The lack of a clearly visible and adequate disclaimer on the Website to clarify the Respondent's relationship, or lack thereof, with the Complainant, further adds to the confusion caused by the Domain Names and constitutes additional evidence of the Respondent's intentional bad faith conduct. However, even if such a disclaimer had been displayed, the Complainant submits that it would not have been sufficient to remove the confusion. The Respondent's failure to respond to the Complainant's cease and desist letter is an additional indication of the Respondent's bad faith.

For the above reasons, the Complainant submits that the Domain Names were registered and are being used in bad faith, in accordance with paragraph 4(a)(iii) of the Policy.

B. Respondent

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

6. Discussion and Findings

Consolidation: Multiple Complainants and Respondents

With respect to the consolidation of multiple complainants, neither the Policy nor the Rules provide for or prohibit this. In this regard, the [WIPO Overview 3.0](#), section 4.11.1 states:

“In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

The Complainants in this administrative proceeding are Meta Platforms, Inc. (“Meta”) (formerly Facebook, Inc.), together with its subsidiary Instagram, LLC (“Instagram”). They have a common legal interest in the FB and REELS Trade Marks, as some registrations are owned by Instagram and others by Meta. In addition, Meta and Instagram have been the target of common conduct by the Respondent, who has registered and uses the Domain Names comprising the FB and REELS Trade Marks, which resolve to the Website where also the INSTAGRAM Trade Marks (owned by Instagram) and the FACEBOOK Trade Marks (owned by Meta) are used. As there is no apparent reason why it would not be equitable and procedurally efficient to permit consolidation or that this would have any unfairly prejudicial effect on the Respondent, while many of the substantive arguments under each of the three elements of the Policy are common to both Domain Names, the Panel decides to permit the consolidation of a single Complaint against the Respondent in the present proceeding.

The Complainant requests consolidation of the Respondent in accordance with Paragraph 3(c) of the Rules. However, such consolidation is not necessary, now that the disclosure of the registrants by the Registrar has revealed that the Domain Names are registered in the name of the same entity.

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 that it has registered rights in the Trade Marks. The Domain Names are confusingly similar to the Trade Marks as they incorporate the Trade Mark REELS as well as, in one case the, the Trade Mark FB. The addition of the term “downloader” does not prevent a finding of confusing similarity between the Domain Names and the Trade Marks (see [WIPO Overview 3.0](#), section 1.8; see also, inter alia, *TPI Holdings, Inc. v. Carmen Armengol*, WIPO Case No. [D2009-0361](#), and *F. Hoffmann-La Roche AG v. John Mercier*, WIPO Case No. [D2018-0980](#)). The gTLD “.com” and the ccTLD “.co” respectively is typically disregarded under the confusing similarity test, since it is a technical registration requirement (see [WIPO Overview 3.0](#), section 1.11). Therefore, the Panel finds that the Domain Names are confusingly similar to the Trade Marks in which the Complainant has rights.

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.

Based on the evidence and the undisputed submissions of the Complainant, the Panel concludes that the Respondent has no connection or affiliation with the Complainant, the Respondent has not received the Complainant’s consent to use the Trade Marks as part of the Domain Names, and the Respondent has not acquired any trade mark rights in the Domain Names. In assessing whether the Respondent has rights or legitimate interests in the Domain Names, it should also be taken into account that (i) since the Domain Names incorporate the FB and REELS respectively the REELS Trade Marks in their entirety with a descriptive term, they carry a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1); and (ii) the Respondent has not provided any evidence, nor is there any indication in the record of this case, that the Respondent is commonly known by the Domain Names.

The Website provides a tool to download and save videos from the Complainant’s INSTAGRAM and FACEBOOK platforms. This use of a domain name may, under circumstances, constitute a bona fide offering of goods or services, in particular if the respondent were a bona fide service provider in relation to the Complainant’s platforms. The criteria therefor are set out in the *Oki Data* decision (*Oki Data Americas, Inc., v. ASD Inc.*, WIPO Case No. [D2001-0903](#)). *Oki Data* concerned an authorised reseller of spare parts for the Oki Data products, but the criteria have also been applied to unauthorised resellers of products or services. In line with that decision, a service provider, using a domain name containing the complainant’s trade marks to provide services with respect to the complainant’s goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain names only if the following conditions are satisfied: (1) the respondent must actually be offering the goods or services at issue; (2) the respondent must use the site to sell only the trademarked goods (otherwise, there is the possibility that the respondent is using the trade mark in a domain name to bait consumers and then switch them to other goods); (3) the site itself must accurately and prominently disclose the respondent’s relationship with the trade mark owner; and (4) the respondent must not try to “corner the market” in all relevant domain names, thus depriving the trade mark owner of the ability to reflect its own mark in a domain name.

The Complainant has not contested that the Respondent offers services on the Website enabling the downloading and saving of Reels (short videos), videos and photos posted on its INSTAGRAM or FACEBOOK platforms and that it does not itself provide those services on these platforms or otherwise. The Website does not appear to offer services in relation to platforms, services or products from other companies and, therefore, does not appear to use the Trade Marks to bait and switch customers to other goods or services. The Complainant has brought forward that the use of the downloader tool to download content from the INSTAGRAM or FACEBOOK platform would be contrary to the Meta Terms of Service; at the same time it indicates a lack of respect of the Complainant’s rights on the Respondent’s part. That would however strictly speaking be a matter between the user of the platform and the Complainant. Whether or not under these circumstances provision of the downloader tool by the complainant would violate the Meta Developer Policies (if and to the extent that they apply) or otherwise be unlawful towards the Complainant is a matter of applicable civil law, which goes beyond the scope of the UDRP.

There is also a question whether the Respondent meets the third *Oki Data* requirement that it must accurately disclose its relationship with the Complainant in a prominent manner. Such a disclaimer should be effective in that it makes clear to visitors of the Website that it is not affiliated with or authorized by the Complainant. This criterion has not been met by the Respondent.

The Website to which the Domain Names resolve (at “www.reeldownloader.co”), contains a general disclaimer in relation to the Complainant’s INSTAGRAM platform (“is not affiliated to Instagram”). This disclaimer is only visible if a visitor to the Website scrolls down to the bottom of each page, below the instructions how to use the “reelsdownloader” on the Website. In addition, there is no express mention on the website that the Respondent is independent from, or not affiliated to, the Complainant.

Given the use of the Trade Marks as part of the Domain Name as well as on the Website, there is a serious risk that an Internet user typing in the Domain Name and seeing the Website could be left with the impression that there is some commercial or legal relationship with the Complainant, which is not the case. In the Panel’s view, under these circumstances the disclaimer is not effective in preventing that visitors to the website are misled into believing that the Website is operated or authorized by, or affiliated with the Complainant.

As the Respondent therefore has not demonstrated that it meets all the criteria of the *Oki Data* decision, the Respondent’s use of the Domain Name prior to the notice of the dispute cannot be considered to be in connection with a bona fide offering of goods or services, in accordance with paragraph 4(c)(i) of the Policy.

Finally, the Respondent is not making a legitimate noncommercial or fair use of the Domain Names as it offers a service for the Complainant’s INSTAGRAM and FACEBOOK platforms on the Website to which the Domain Names resolve, while creating an impermissible risk of confusion about a non-existing affiliation with or endorsement of those services by the Complainant.

In view of the above, the Panel concludes that the Complainant has established its case under the second element of the Policy.

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.

Based on the undisputed information and evidence provided by the Complainant, the Panel finds that there is bad faith registration. At the time of registration of the Domain Name, the Respondent was or should have been aware of the Complainant and the Trade Marks, since:

- the Respondent’s registration of the Domain Name occurred 13 years after the registration of the earliest FB Trade Mark and 3 years after the registration of the earliest REELS Trade Mark;
- the Respondent has incorporated the Trade Marks REELS and FB in the Domain Names;
- a simple trade mark register search, or even an Internet search, prior to registration of the Domain Name would have informed the Respondent of the existence of the Trade Marks.

Moreover, the Respondent’s intent to target the Complainant when registering the Domain Names may be inferred from the content of the Website, which makes explicit reference to the Complainant’s INSTAGRAM and FACEBOOK platforms and its REELS service.

With regard to bad faith use, the Panel finds that the following circumstances taken together warrant a finding of bad faith use of the Domain Names:

- the probability that the Respondent was aware or should have been aware of the Complainant’s rights in the Trade Marks;
- the use of the Trade Marks FB, REELS, INSTAGRAM and FACEBOOK on the Website;
- the lack of a disclaimer accurately disclosing the Respondent’s relationship with the Complainant;
- the lack of a response to the cease-and-desist letter from the Complainant; and
- the lack of a Response to the Complaint.

Therefore, the Panel concludes on the basis of all of the above circumstances, taken together, that the Domain Names have been registered and are being used in bad faith.

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 <fbreelsdownloader.com> and <reelsdownloader.co> be transferred to the Complainant.

/Wolter Wefers Bettink/

Wolter Wefers Bettink

Sole Panelist

Date: September 25, 2024