

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Instagram, LLC v. Le Thanh Tong Case No. D2024-3128

1. The Parties

Complainants are Meta Platforms, Inc., United States of America (“United States”) (“Complainant No. 1”) and Instagram, LLC, United States (“Complainant No. 2”) (together “Complainants”), represented by Hogan Lovells (Paris) LLP, France.

Respondent is Le Thanh Tong, Viet Nam.

2. The Domain Names and Registrars

The disputed domain name <fbreels.app> (“disputed domain name No. 1”) is registered with NameCheap, Inc, the disputed domain names <igdownloader.app> (“disputed domain name No. 2”) and <saveinsta.app> (“disputed domain name No. 3”) are registered with Hosting Concepts B.V. d/b/a Registrar.eu, and the disputed domain name <saveig.app> (“disputed domain name No. 4”) is registered with Nicenic International Group Co., Limited (hereinafter, collectively, the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 30, 2024, including the disputed domain names and three additional domain names. On July 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 31, 2024, August 1, 2024, and August 2, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf; REDACTED FOR PRIVACY, Whois Privacy Protection Foundation; and Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainants on August 19, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting Complainants to either file separate complaint(s) 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. On August 23, 2024, Complainants filed an amended Complaint and a request to withdraw three domain names with different underlying registrant details from the Complaint. The partial withdrawal was duly notified on September 2, 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 Respondent of the Complaint, and the proceedings commenced on September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 2, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on October 7, 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

Complainant No. 1 is a company organized under the laws of the United States that operates the well-known “Facebook” social networking website and mobile application, while Complainant No. 2 is a related company as well organized under the laws of the United States which operates the well-known online photo-and video-sharing social networking service and mobile application “Instagram”.

Complainants have provided evidence of their ownership in various registered trademarks relating to their brands FB, IG as well as INSTA, including, but not limited to, the following:

- word trademark FB, United States Patent and Trademark Office (“USPTO”), registration number: 4,659,777, registration date: December 23, 2014, registered owner: Complainant No. 1, status: active;
- word trademark IG, European Union Intellectual Property Office (“EUIPO”), registration number: 017946393, registered on January 31, 2019, registered owner: Complainant No. 2, status: active;
- word trademark INSTA, USPTO, registration number: 5,061,916, registration date: October 18, 2016, registered owner: Complainant No. 2, status: active.

Moreover, Complainants have demonstrated to own various domain names relating to their company names and brands, inter alia, as for Complainant No. 1, since 2004, the domain name <facebook.com> used to run the “Facebook” website at “www.facebook.com”, and as for Complainant No. 2, again since 2004, the domain name <instagram.com>, used to run the “Instagram” social network application.

Respondent, according to the disclosed Whois information for the disputed domain names, is located in Viet Nam.

The disputed domain name No. 1 was registered on September 14, 2022. Complainants have evidenced that as at the time of the filing of the Complaint, the latter resolved to a website titled “FbReels” that purported to offer a tool to download video content and reels from the Facebook platform, and that featured a blue and white colour scheme similar to the one used for the Facebook platform, absent any disclaimer as to the lack of relationship between the Parties.

The disputed domain name No. 2 was registered on July 31, 2022. Complainants have evidenced that as at the time of the filing of the Complaint, the latter resolved to a website titled “IG Downloader” that purported to offer a free tool to download, or view and download, Instagram content, including photos, videos, reels and stories, and that also featured commercial advertising banners, absent any disclaimer as to the lack of relationship between the Parties.

The disputed domain name No. 3 was registered on December 19, 2021. Complainants have evidenced that as at the time of the filing of the Complaint, the latter resolved to a website titled "SaveInsta" that as well purported to offer a tool to download, or view and download, Instagram content, including photos, videos, reels and stories, and that featured a pink and purple colour scheme similar to the one used for the Instagram platform, and indicating in a small font in the website footer the wording: "We are not affiliated with Instagram or Meta."

The disputed domain name No. 4 was registered on March 17, 2022. Complainants have evidenced that as at the time of the filing of the Complaint, the latter resolved to a website titled "SaveIG" that as well purported to offer a free tool to download, or view and download, Instagram content, including photos, videos, reels and stories, and that also featured commercial advertising banners, absent any disclaimer as to the lack of relationship between the Parties.

Complainants request that the disputed domain name No.1 be transferred to Complainant No. 1, while the disputed domain names Nos. 2 to 4 be transferred to Complainant No. 2.

5. Parties' Contentions

A. Complainant

Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names. Notably, Complainants contend (1) that the "Facebook" platform is a leading provider of online social media and social networking services and has developed since 2004 considerable renown and goodwill worldwide, and (2) that the social network application "Instagram" is worldwide renowned as the world's fastest growing photo/video-sharing and editing software and online social network, with more than 2.4 billion monthly active accounts worldwide and constantly ranked amongst the top "apps" for mobile devices.

Complainants submit that the disputed domain names are confusingly similar to Complainants' FB, IG and INSTA trademarks, as they incorporate the latter, simply added by the terms "reels", "downloader", and "save", respectively. Moreover, Complainants assert that Respondent has no rights or legitimate interests in respect of the disputed domain names since (1) Respondent is not affiliated with Complainants in any way, and the latter have not granted any authorization for Respondent to make use of Complainants' trademarks, in a domain name or otherwise, (2) as at the date of the filing of the Complaint, the disputed domain names resolved to websites that purported to provide free tools to download content from the Facebook platform or to viewing or downloading content from the Instagram platform, (3) Respondent, therefore, cannot be viewed as a bona fide service provider as it has not provided sales or repairs in relation to a product provided by Complainants, but rather has made unauthorized use of Complainants' FB, IG and INSTA trademarks to market its own ancillary services, namely purporting to provide tools enabling Internet users to view or download content from Complainants' Facebook and Instagram platforms, thereby breaching the Meta Developer Policies and facilitating breach of the Facebook Terms of Service as well as the Instagram Terms of Use, (4) the websites under the disputed domain names No. 1 to 3 did not feature any wording that sought to disclaim any affiliation with Complainant, and (5) registration of a total of four domain names comprising Complainants' various trademarks alongside various descriptive terms constitutes an attempt to "corner the market" in domain names reflecting Complainants' trademarks. Finally, Complainants argue that Respondent has registered and is using the disputed domain names in bad faith because (1) Complainants' FACEBOOK and INSTAGRAM trademarks are inherently distinctive and well-known throughout the world, and Complainants' FB, IG and INSTA trademarks are well-known throughout the world, too, as abbreviations of those FACEBOOK and INSTAGRAM trademarks, (2) Respondent's intent to target Complainants when registering the disputed domain names may be inferred from the nature of those domain names, each of which incorporates one of Complainants' FB, IG and INSTA trademarks with the addition of a term relating to Complainants' services such as "downloader" or "reels", as well as from the content of Respondent's websites, which made explicit reference to Complainant's FACEBOOK, FB, IG, INSTA or INSTAGRAM trademarks, (3) Respondent has used the disputed domain names to purport to provide tools to view or

download content from Complainants' Facebook and Instagram platforms, thereby breaching the Meta Developer Policies and facilitating breach of the Facebook Terms of Service as well as the Instagram Terms of Use, (4) Respondent sought to target Complainants' trademarks to create an impression of association with Complainants, and (5) Respondent's websites under the disputed domain names Nos. 1 to 3 did not feature disclaimers as to the lack of relationship between the Parties, while the website under the disputed domain name No. 4 featured small wording in the website footer.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainants carry the burden of proving:

- (i) That the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainants have rights;
- (ii) That Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) That the disputed domain names have been registered and are being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainants, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Consolidation due to multitude of Complainants

First, as regards the multitude of Complainants, given that they are related companies belonging to the same corporate group and have both been targeted by Respondent in a common manner, Complainants obviously have a specific common grievance against Respondent which is why it is appropriate in the case at hand and in line with the UDRP panelists' majority view to accept this Complaint filed by multiple complainants (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1).

B. Identical or Confusingly Similar

Second, 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 Complainants' trademarks and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Complainants have shown rights in respect of their FB, IG and INSTA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Also, the entirety of such trademarks is reproduced within the disputed domain names, merely added by other terms such as "downloader", "reels" or "save". Accordingly, the disputed domain names are confusingly similar to Complainants' FB, IG and INSTA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, the terms "downloader", "reels" or "save") 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 Complainants' FB, IG and INSTA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

C. Rights or Legitimate Interests

Third, paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in the disputed domain names.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainants’ prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

In particular, Respondent has not been authorized to use Complainants’ FB, IG and INSTA trademarks, either as a domain name or in any other way. Also, there is no reason to believe that Respondent’s name somehow corresponds with the disputed domain names and Respondent does not appear to have any trademark rights associated with the terms “fb”, “ig” and/or “insta” on its own. To the contrary, the disputed domain names at some point resolved to similar websites titled “FbReels”, “IG Downloader”, “SaveIG” and “SaveInsta”, which purported to offer tools to view or download content from Complainants’ Facebook and Instagram platforms, and in some cases were using a colour scheme very similar to the ones used by Complainants on the Facebook and Instagram platforms, without any authorization to do so. Such use of the disputed domain names neither qualifies as bona fide nor as legitimate noncommercial or fair within the meaning of the Policy (not even so under the so-called “Oki Data” principles which would have required Respondent e.g. to only offer on its websites under the disputed domain names the goods and services trademarked under Complainants’ FB, IG and INSTA trademarks, which Respondent obviously and quite to the contrary did not, but instead offered its own ancillary services, namely providing tools that enable Internet users to download content from Complainants’ Facebook and Instagram platforms; see [WIPO Overview 3.0](#), section 2.8).

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

D. Registered and Used in Bad Faith

Last, 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.

The circumstances in this case leave no doubt that Respondent was fully aware of Complainants’ worldwide renowned Facebook and Instagram platforms and their rights in the FB, IG and INSTA trademarks when registering the disputed domain names and that the latter clearly are directed thereto. Moreover, using the disputed domain names to run similar websites titled “FbReels”, “IG Downloader”, “SaveIG” and “SaveInsta”, which purported to offer tools to view or download content from Complainants’ Facebook and Instagram platforms, and in some cases using colour schemes very similar to the ones used by Complainants on the Facebook and Instagram platforms, without any authorization to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own websites by creating a likelihood of confusion with Complainants’ FB, IG and INSTA trademarks as to the source, sponsorship, affiliation or endorsement of Respondent’s websites. Such circumstances are evidence of registration and

use of the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. Moreover, the fact that Respondent created and registered a multitude of at least four domain names all of which include one of Complainants' FB, IG or INSTA trademarks added by a term relating to Complainants' services such as "downloader" or "reels", also fulfills the requirements of a pattern of bad faith conduct within the meaning of paragraph 4(b)(ii) of the Policy (see [WIPO Overview 3.0.](#), section 3.1.2).

Having reviewed the record, the Panel, therefore, holds Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy, so that Complainants have established the third element of the Policy, too.

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 No. 1, <fbreels.app>, be transferred to Complainant No.1 and the disputed domain names Nos. 2 to 4, <igdownloader.app>, <saveig.app> as well as <saveinsta.app>, be transferred to Complainant No.2.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: October 21, 2024