

## ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Mohammed Mohiuddin  
Case No. D2024-3647

### 1. The Parties

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

The Respondent is Mohammed Mohiuddin, United Arab Emirates (“UAE”).

### 2. The Domain Name and Registrar

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

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 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 September 12, 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 September 17, 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”).

On September 19, 2024, the Respondent sent an informal email communication to the Center, expressing wishes to settle the dispute. Accordingly, the Center sent a possible settlement email but the Complainant did not wish to suspend the proceeding.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2024.

The Respondent sent various informal email communications to the Center on September 27, October 3, October 4, and October 18, 2024, to which the Center acknowledged receipt. The Respondent did not file a formal Response.

The Center appointed Edoardo Fano as the sole panelist in this matter on October 25, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to [the] Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a formal response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is Instagram, LLC, a United States company providing a world-famous online photo and video sharing social networking application, founded in 2010 and acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) in 2012, owning several trademark registrations for INSTAGRAM and INSTA, among which:

- International Trademark Registration No. 1129314 for INSTAGRAM, registered on March 15, 2012;
- United States Trademark Registration No. 4146057 for INSTAGRAM, registered on May 22, 2012;
- European Union Trademark Registration No. 014493886 for INSTAGRAM, registered on December 24, 2015;
- United Arab Emirates Trademark Registration No. 239858 for INSTAGRAM, registered on May 18, 2016;
- United States Trademark Registration No. 5061916 for INSTA, registered on October 18, 2016;
- European Union Trademark Registration No. 014810535 for INSTA, registered on May 23, 2018.

The Complainant operates on the Internet at the main website “www.instagram.com”, as well as with many other generic Top-Level Domains (“gTLDs”) and country code Top-Level Domains (“ccTLDs”) including the trademark INSTAGRAM.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on May 3, 2018, and it redirects to a suspended website. However, when the Complaint was filed, the disputed domain name resolved to a website in which the Complainant's trademark INSTAGRAM and logo were reproduced, the Complainant's logo was used as a favicon in the address bar, and tools for downloading content from the Instagram platform were purportedly provided.

On August 12, 2024, the Complainant's lawyers sent a cease-and-desist letter to the Respondent, and the Respondent did not reply.

## **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 states that the disputed domain name is confusingly similar to its trademarks INSTAGRAM and INSTA, as the disputed domain name wholly contains the Complainant's trademark INSTA with the addition of the terms "save" and "online".

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademarks within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolved to a website in which the Complainant's trademark INSTAGRAM and logo were reproduced, the Complainant's logo was used as a favicon in the address bar, and tools for downloading content from the Instagram platform were purportedly provided, in breach of the Complainant's Terms of Use as well as the Meta's Developer Policies.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademarks INSTAGRAM and INSTA are distinctive and well known. Therefore, the Respondent targeted the Complainant's trademarks at the time of registration of the disputed domain name and the Complainant contends that the use of the disputed domain name to intentionally attract, for commercial gain, Internet users to the Respondent's website, creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, qualifies as bad faith registration and use.

### **B. Respondent**

The Respondent has made no formal reply to the Complainant's contentions,

However, on September 19 and 27, and on October 3, 4, and 18, 2024, the Respondent sent the following email communications to the Center, regarding possible settlement of the dispute:

"Sorry im not aware of any legal terms etc. I have suspended the website. Dynadot can suspend domain as well." (on September 19, 2024);

"Please send form as mentioned earlier to close this case. As i mentioned earlier i have limited access to internet these days. I have received notice from whois as well. @Dynadot Complaints Team, kindly remove domai as website long shutdown. Thanks." (on September 27, 2024);

"Dear All, Check with dynadot domain is suspended and also website ia shutdown What panel will say. Its simple close the case." (on October 3, 2024);

“Dear All, I do not understand what this case wants? when i agreed to cancel the domain from my account and website is already shut. which i have informed several times. As I mentioned before I was not aware of any IP violation regarding this domain name which I bought a few years back from someone else. Kindly close this case which I have been requesting since the notice I received from you. I have replied many times. Thanks” (on October 4, 2024);

“May i have replied almost 4 to 5times or more that im was not aware of this kind of violation as i bought the website from someone else and didnt earn anything. Also i have replied many times stating that to cancel the domain or suspend it permanently. Attached are emails screenshot and acknowledgement from dispute department. Im again insisting Dynadot to cancel or transfer or suspend the domain permanently. Your emails are kind of mental torture to me even after so many emails request. Please cancel the domain or suspend permanently and close the case of this dispute.” (on October 18, 2024);

“Please find attached screenshots in which i have informed many times to close the case and website is already removed long time back. Therefore please” (on October 18, 2024).

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

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

### **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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced 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.

While the addition of other terms, here “save” and “online”, 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 name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain, in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

Should the Respondent’s services purportedly provided on the website to which the disputed domain name was directing Internet users be genuine services, the question that would arise is whether the Respondent would therefore have any rights or legitimate interests in using the disputed domain name that is confusingly similar to the Complainant’s trademarks in circumstances that are likely to give rise to confusion.

According to the current state of UDRP decisions in relation to the issue of resellers as summarized in the [WIPO Overview 3.0](#), section 2.8.1:

“[...] resellers, distributors, or service providers using a domain name containing the complainant’s trademark to undertake sales or repairs related 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 name. Outlined in the ‘Oki Data test’, the following cumulative requirements will be applied in the specific conditions of a UDRP case:

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

This summary is based on the UDRP decision in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

However, the website at the disputed domain name was not only mentioning the Complainant’s trademark INSTAGRAM on every webpage and not accurately and prominently disclosing its lack of relationship with the Complainant, but it was also not providing services for the proper use of the Complainant’s product. Thus, the Panel is of the opinion that this is sufficient to support the allegation of lack of rights or legitimate interests of the Respondent in relation to this disputed domain name.

Based on the available record, 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, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant's trademarks INSTAGRAM and INSTA in the field of online photo and video sharing social networking application is clearly established, and the Panel finds that the Respondent must have known of the Complainant, and deliberately registered the disputed domain name in bad faith, especially because in the website at the disputed domain name the Complainant's trademark INSTAGRAM and logo were reproduced, the Complainant's logo was used as a favicon in the address bar, and tools for downloading content from the Instagram platform were purportedly provided.

The Panel further notes that the disputed domain name was also being used in bad faith since the Respondent was trying to attract Internet users to its website by creating likelihood of confusion with the Complainant's trademarks as to the disputed domain name's source, sponsorship, affiliation or endorsement, an activity clearly detrimental to the Complainant's business.

As regards the current use of the disputed domain name, being suspended, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the reputation of the Complainant's trademarks, the previous use of the disputed domain name, and the failure of the Respondent to submit a formal response together with its willingness to transfer the disputed domain name to the Complainant, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

### **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, <instasaveonline.com>, be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: October 31, 2024