

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. Abhishek Singh, Abhishek singh, Abhishek Rajpoot,  
Probhai.com

Case No. D2024-3956

### **1. The Parties**

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

The First Respondent is Abhishek Singh, Abhishek singh, India.

The Second Respondent is Abhishek Rajpoot, Probhai.com, India.

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

The disputed domain names <instavideosave.com> (the “First disputed domain name”) and <instavideosave.net> (the “Second disputed domain name”) are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2024. On September 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 30, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 1, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant 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. The Complainant filed an amended Complaint on October 9, 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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Complainant forwarded the Center an informal communication from the Respondent on October 7, 2024. The Center did not directly receive any replies from the Respondent. Accordingly, the Center notified the Respondent's default on November 6, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on November 8, 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**

Launched in 2010, the Complainant, commonly known as "Insta", is an online photo and video sharing social networking application, presently counting with more than 2 billion monthly active accounts worldwide.

The Complainant is the owner, amongst others, of the following trademark registrations:

- United States trademark registration No. 4146057 for INSTAGRAM, registered on May 22, 2012, claiming first use in commerce on October 6, 2010;
- United States trademark registration No. 5061916 for INSTA, registered on October 18, 2016;
- International trademark registration No. 1129314 for INSTAGRAM, registered on March 15, 2012;
- Indian trademark registration No. 3101498 for INSTA, registered on November 19, 2015; and
- European Union trademark registration No. 014810535 for INSTA, registered on May 23, 2018.

The First disputed domain name was registered on July 7, 2020, and presently does not resolve to an active webpage. The Second disputed domain name was registered on September 29, 2020, and presently redirects Internet users to the webpage available at <fastvideosave.net> where the download of Instagram Reels is offered and pay-per-click links and advertisements are displayed.

#### **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 names.

Notably, the Complainant asserts to be one of the world's leading providers of online social networking services and applications, actively promoting and using its INSTA and INSTAGRAM trademarks throughout the world.

The Complainant submits that the disputed domain names are subject to common control by either the same person or connected parties and for reasons of fairness, equity and efficiency, the Complainant requests consolidation of the multiple Respondents to the same Complaint, given that: i) the underlying registrant details disclosed by the Registrar evidence that the disputed domain names were registered by the same individual given that they share: a. the same first name (i.e., Abhishek); b. the streets are practically identical; c. the same city; d. the same state; e. the same postal code; f. the same country (i.e., India); and g. the same telephone number; ii) the disputed domain names resolve or redirected to the same

website; iii) both disputed domain names were registered using a proxy service; iv) through the same Registrar; v) are hosted on the same name servers; and vi) share the same naming pattern.

The disputed domain names are, according to the Complainant, confusingly similar to the Complainant's trademarks, creating a likelihood of confusion given that the presence of its INSTA trademarks in the disputed domain names is sufficient to establish confusing similarity between the disputed domain names and the Complainant's INSTA trademarks, not being the addition of the descriptive terms "video" and "save" capable of preventing a finding of confusing similarity thereof.

Moreover, the Complainant asserts that the Respondents have no rights or legitimate interests in respect of the disputed domain names given that:

- (a) the Respondents are not licensees of the Complainant, nor are they affiliated with the Complainant in any way; the Complainant has not granted any authorization for the Respondent to make use of its INSTA or INSTAGRAM trademarks, in a domain name or otherwise;
- (b) the Respondents have not used the disputed domain names in connection with a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy nor have the disputed domain names been used for legitimate noncommercial or fair use purpose in accordance with paragraph 4(c)(iii) of the Policy given that the use of the disputed domain names in connection with websites purportedly offering to provide a tool for downloading content from Instagram and Facebook characterizes both a breach of the Terms of Service as well as may put the security of Instagram users at risk, as content scraped from the Instagram platform may be stored and used for unauthorized purposes by third parties;
- (c) the Respondents' websites do not accurately and prominently disclose their lack of relationship with the Complainant; and
- (d) the Respondents are not commonly known by the disputed domain names.

As to the registration of the disputed domain names in bad faith, the Complainant asserts that the Respondents knew or should have known of the Complainant's trademark rights at the time of the registration of the disputed domain names considering that it has acquired considerable goodwill and renown worldwide. Further, the Respondents' intent to target the Complainant can easily be inferred from the use made of the disputed domain names which created a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites. Moreover, the Respondents' use of a proxy service to conceal their identity further supports an inference of bad faith on the part of the Respondents. Lastly, prior panels have held that the unauthorized downloading of content from the platform of the Complainant and its related companies may place the privacy and security of users of such platforms at risk and amounts to bad faith (*Meta Platforms, Inc. v. Muhammad Shahbaz*, WIPO Case No. [D2024-0288](#)).

Lastly, the Respondents' failure to respond to the Complainant's cease and desist letter is a further indicator of the Respondents' bad faith.

## **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1. Procedural Matter - Consolidation of Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each

other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states 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 addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that (i) both disputed domain names share similar if not the same registrant information; ii) both disputed domain names resolve or redirected to websites purporting to provide a tool for downloading content from Instagram and Facebook; iii) the websites to which the First and Third disputed domain names resolved were highly similar; and iv) both disputed domain names follow the same naming pattern.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

## **6.2. Substantive Matter**

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain names.

### **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 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 Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

In the present case, the Respondent's use of the disputed domain names purportedly offering a tool for downloading content from Instagram and Facebook cannot be considered a bona fide offering of goods or services.

In addition to that, the absence of any indication that the Respondent has been commonly known by the disputed domain names, or that it has acquired any registered trademarks or trade names corresponding to the disputed domain names, as well as the Complainant's statement that no authorization, license, or permission had been given for the Respondent to register and use the disputed domain names corroborates the indication of the Respondent's lack of rights or legitimate interests in the disputed domain names.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain names.

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 use made of the disputed domain names characterizes the Respondent's intent of commercial gain by misleadingly diverting the Complainant's consumers or merely profiting from revenues and/or data that solely will be accessible for them in view of the association with the Complainant's notorious trademarks.

Such use, in this Panel's view, constitutes an attempt to profit from the fame and goodwill associated with the Complainant's famous trademarks, thus unfairly capitalizing on the INSTA and INSTAGRAM trademarks by creating a likelihood of confusion in Internet users who are likely to believe that the disputed domain names are either connected, endorsed, or authorized by the Complainant, which is not true.

Three other relevant factors corroborate the finding of the Respondent's bad faith conduct in this case: the retention of a privacy protection service; the lack of reply to the cease and desist letter sent prior to this proceeding; and the present passive holding of the First disputed domain name which, in the circumstances of this case does not prevent a finding of bad faith under the Policy.

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 names <instavideosave.com> and <instavideosave.net> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: November 22, 2024