

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Uzhanmedya, Orhan Uzdu
Case No. D2024-4724

1. The Parties

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

The Respondent is Uzhanmedya, Orhan Uzdu, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <glassagram.org> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 7, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 8, 2024. The Respondent did not submit any formal response. However, the Respondent sent three informal email communications to the Center, on November 18 and on December 10, 2024, respectively. The Center notified the Commencement of Panel Appointment Process on December 10, 2024.

The Center appointed Edoardo Fano as the sole panelist in this matter on December 16, 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 an 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 GRAM, 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;
- Turkish Trademark Registration No. 2012/85440 for INSTAGRAM, registered on April 28, 2015;
- European Union Trademark Registration No. 015868797 for GRAM, registered on January 12, 2017;
- European Union Trademark Registration No. 017642729 for GRAM, registered on March 23, 2019.

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 has provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on May 15, 2023, and it resolves to a website entitled "Glassagram" and purports to offer an anonymous Instagram viewer. The *glassagram* sign on the website looks like a variation of the Complainant's trademark *Instagram*.

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 GRAM, as the disputed domain name wholly contains the Complainant's trademark GRAM with the addition of the term "glassa".

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 resolves to a website on which the Complainant's INSTAGRAM trademark and a variation of the Complainant's figurative trademark are displayed, and the Respondent is purportedly providing an unauthorized tool for anonymously viewing content from Instagram without the need for an Instagram account, 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 GRAM 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 November 18 and on December 10, 2024, the Respondent sent the following email communications to the Center:

"Hello, we will not use any software in the relevant domain. Our site will be converted into a hashtag helper site." (on November 18, 2024);

"I have already resolved the policy issues in the domain.?" (on December 10, 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 GRAM 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 "glassa", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 gTLD, in this case ".org", 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.

The website at the disputed domain name not only displays a variation of the Complainant's figurative trademark but also purports to offer a tool for anonymously viewing private Instagram profiles even if the viewer has no consent from those private Instagram accounts to view their profile. The website further indicates that using an "anonymous IG viewer" or "private Instagram viewer" is not supported by the Complainant, and users may be exposed to "potential risks such as downloading malware of phishing scams". Thus, the Panel is of the opinion that the use of the disputed domain name for illegitimate purposes 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 GRAM 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 on the website at the disputed domain name the Complainant's INSTAGRAM trademark as well as a variation of the Complainant's figurative trademark are displayed, and an anonymous Instagram viewer is purportedly offered.

The Panel further notes that the disputed domain name is also being used in bad faith since the Respondent is trying to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the disputed domain name's source, sponsorship, affiliation or endorsement. Such use of the disputed domain name may also disrupt the Complainant's business.

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, <glassagram.org>, be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: December 19, 2024