

ADMINISTRATIVE PANEL DECISION

Instagram, LLC v. Imran khan

Case No. DIO2024-0019

1. The Parties

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

The Respondent is Imran khan, India.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 4, 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 July 8, 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 12, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit a formal response, however sent informal email communications on July 19 and 20, 2024, and August 16, 2024. The Center informed the Parties that it would proceed to panel appointment on August 16, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on August 26, 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 the developer of the online photo- and video-sharing social networking application Instagram launched in 2010.

Acquired in 2012 by Facebook, Inc. (now Meta Platforms, Inc.), Instagram currently has more than 2 billion monthly active accounts worldwide.

The Complainant has strong presence on various social-media platforms. It has more than 33 million followers on X (formerly Twitter) and its Facebook page has over 60 million Facebook “likes”.

The Complainant is among others owner of the following trademark registrations:

- United States Trademark Registration No. 4146057 for the word mark INSTAGRAM registered since May 22, 2012;

- European Union Trademark Registration (“EUTM”) No. 015442502 for a figurative mark registered since September 21, 2016, and EUTM No. 016039828 for a figurative mark registered since May 3, 2017 (hereinafter referred to as the “Instagram logos”).

The Complainant is owner of numerous domain names consisting of or including its INSTAGRAM mark, e.g. the domain name <instagram.com>, which was registered on June 4, 2004, and resolves to its principal website.

The disputed domain name was registered on July 6, 2023, and resolved to a website that featured multiple references to the Complainant’s INSTAGRAM mark, displayed the Complainant’s Instagram logos, and purported to offer for download an unauthorized modified Android Package Kit (“APK”) version of the Complainant’s Instagram application with additional features that are not offered on the Complainant’s platform.

On June 5, 2024, in an attempt to resolve the matter amicably, the Complainant’s representatives sent a cease-and-desist letter to the Respondent’s email address but have received no response and subsequently filed the Complaint on July 2, 2024.

The disputed domain name expired on July 6, 2024. On July 11, 2024, the Registrar advised that “if a domain name expires during a UDRP proceeding, it is our policy to allow the Complainant or Registrant the opportunity to renew/restore the domain name to prevent deletion”. On July 15, 2024, the Complainant requested the Registrar to renew/restore the disputed domain name and on July 18, 2024, the Registrar advised that the disputed domain name “has been renewed”.

Currently the disputed domain name does not appear to resolve to an active website.

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 contends that:

- the disputed domain name, which fully incorporates its INSTAGRAM mark is confusingly similar to it since the addition of the term “pro” to the mark in the disputed domain name does not prevent a finding of confusing similarity;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy; and
- the Respondent has registered the disputed domain name with knowledge of its famous INSTAGRAM mark and used it to attract visitors to its website to promote its social media product (an unauthorized modified version of the Complainant’s Instagram application called “Instagram Pro APK”) for commercial gain.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

As mentioned above the Respondent did not submit a formal response.

However, the Respondent sent informal email communications to the Center on July 19 and 20, 2024, and on August 16, 2024, stating that he registered the disputed domain name by mistake being unaware that it could lead to legal implications and that “did not engage in any activities that would violate” the Complainant’s trademark rights intentionally. The Respondent further stated that since he did not renew the disputed domain name, it expired on July 6, 2024, and he requested that the Complaint “be dismissed” given that he has no longer any ownership over or association with the disputed domain name.

6. Discussion and Findings

The Panel notes that the .IO Domain Name Dispute Resolution Policy is substantially similar to the Uniform Domain Name Dispute Resolution Policy (“the UDRP”). Therefore, where appropriate, the Panel applies principles established in connection with the UDRP.

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the disputed domain name is 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 dispute domain name; and
- (iii) the disputed domain name has been registered or 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.

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 Complainant’s INSTAGRAM mark is fully reproduced and is recognizable 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.

Although the addition of other terms, here the term “pro”, 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.

The Panel finds that 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 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 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.

In fact, the Respondent himself asserts that he did not renew the registration of the disputed domain name and has no control over it.

However, for the sake of completeness the Panel notes that:

- the Respondent is not affiliated with the Complainant in any way and has never been authorized by the Complainant to register and use a domain name incorporating its INSTAGRAM mark;
- under the circumstances of the case the prior use of the disputed domain name for a website that prominently displayed the Complainant’s INSTAGRAM mark and Instagram logos and apparently promoted an unauthorized modified version of the Complainant’s Instagram app does not amount to a bona fide offering of goods and services or legitimate noncommercial fair use; and
- the composition of the disputed domain name, namely consisting of the Complainant’s mark plus and additional term supports the finding of the risk of implied affiliation of the disputed domain name with the Complainant and thus cannot confer any rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

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

C. Registered or 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 or use of a domain name in bad faith.

In the present case, the Panel notes that the due to its global reach and popularity the Complainant’s INSTAGRAM mark has become well known long before the registration of the disputed domain name.

Concerning the well-known status of the INSTAGRAM mark see also *Instagram, LLC v. Saddam Hussain*, WIPO Case No. [D2018-0078](#) and *Instagram, LLC v. Hannes Stiller*, WIPO Case No. [D2023-1436](#).

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In view of the Panel the evidence on record cast serious doubt on the Respondent's claim that he registered the disputed domain name by mistake and being unaware that it could lead to legal implications.

The Respondent replicated the well-known INSTAGRAM mark in the disputed domain name and the website at the disputed domain name prominently featured the Complainant's mark and its Instagram logos and displayed multiple references to the Complainant's own Instagram app. Thus, in the Panel's view the Respondent clearly had the Complainant and its marks in mind at the time of registration and that it registered and used the disputed domain name in order to target the Complainant and its well-known marks within the meaning of paragraph 4(b)(iv) of the Policy.

The Complainant attempted to resolve the dispute amicably almost one month before filing the Complaint, requesting first and foremost that the Respondent transfer the disputed domain name to the Complainant at no costs. The fact that the Respondent did not respond to the June 5, 2024 dated cease-and-desist communication of the Complainant's representatives and left the Complainant with no other choice but to file the Complaint which resulted in incurring unnecessary costs for the Complainant is in view of the Panel contrary to good faith.

As mentioned above the disputed domain name currently does not resolve to an active website. However, this does not prevent a finding of bad faith. The Complainant's INSTAGRAM is distinctive and enjoys worldwide reputation; the Respondent failed to submit a response or to provide any evidence of actual or contemplated good faith use and the Panel is unable to conceive of a realistic good faith use to which the Respondent could put the disputed domain name. [WIPO Overview 3.0](#), section 3.3.

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 name <instagrampro.io> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: September 9, 2024