

## **ADMINISTRATIVE PANEL DECISION**

Instagram, LLC v. Talha Rehman, Techlegend  
Case No. D2024-2735

### **1. The Parties**

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

The Respondent is Talha Rehman, Techlegend, Pakistan.

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

The disputed domain name <instagramstoryviewer.info> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 4, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 9, 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 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 July 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2024. The Respondent sent several communications on July 12 and August 13, 2024, but did not submit a formal response. The Center notified the Commencement of the Panel Appointment Process on July 16, 2024.

The Center appointed Stefan Bojovic as the sole panelist in this matter on August 19, 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 an online photo and video sharing social-networking application which was launched in 2010 and acquired by Facebook, Inc. (now Meta Platforms, Inc.) in 2012. Today, the Complainant's Instagram application is the world's fastest growing photo- and video-sharing and editing software and online social network, with more than 2.3 billion monthly active accounts worldwide.

The Complainant is the owner of the INSTAGRAM trademark which is protected by a trademark registration in many jurisdictions throughout the world, including the following:

- 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; and
- European Union Trademark No. 014493886 for INSTAGRAM, registered on December 24, 2015.

The Complainant also owns and operates many domain names that reflect its INSTAGRAM trademark including <instagram.com> registered on June 4, 2004.

The disputed domain name currently resolves to a "Connection timed out" (Error 522) page. However, based on the evidence provided by the Complainant<sup>1</sup>, the disputed domain name previously resolved to a website that was titled "Instagram Story Viewer" and purported to offer a free tool to view content on the Complainant's Instagram application, including posts, stories and reels anonymously, i.e., "without notifying instagram account holders" and "without an account". The Respondent's website also purported to enable Internet users to save the content directly to their device.

#### **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 is confusingly similar to its INSTAGRAM trademark, which is recognizable within the disputed domain name and the addition of the words "story" and "viewer" and the gTLD ".info" do not prevent a finding of confusing similarity.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that the Respondent is not licensee of the Complainant, that it is not affiliated with the Complainant in any way, and that the Complainant has not granted any authorization for the Respondent to make use of its INSTAGRAM trademark, in a domain name or otherwise. The Respondent is also not commonly known by the disputed domain name. The disputed domain name has not been used in connection with any bona fide offering of goods or services as the Respondent is making unauthorized use of the Complainant's INSTAGRAM trademark to market its own ancillary services (provision of a tool that enables Internet users to view Instagram content and save or download content to their device). Even if such services would be

---

<sup>1</sup> The Panel has performed limited factual research in accordance with general powers granted to the Panel under paragraphs 10 and 12 of the Rules (see, in particular, section 4.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition [WIPO Overview 3.0](#)) and has confirmed that, based on the entries in the Internet archive, the disputed domain name indeed resolved to a website described by the Complainant.

evaluated under Oki Data test (as established in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), the Respondent would fail such test, since services provided under the disputed domain name are in breach of the Meta Developer Policies and may have facilitated breach of the Instagram Terms of Use. The Complainant also adds that the website to which the disputed domain name used to resolve neither accurately nor prominently discloses the Respondent's lack of relationship with the Complainant.

With reference to the circumstances evidencing bad faith, the Complainant states that its INSTAGRAM trademark is inherently distinctive and well-known throughout the world in connection with its online photo-sharing social network and that the Respondent could not credibly argue that it did not have knowledge of the Complainant or its INSTAGRAM trademark when registering the disputed domain name. The content of the website to which the disputed domain name used to resolve also indicates that the Respondent was well-aware of the Complainant and its trademark. The use of the disputed domain name for the website that offers a free tool to view content on the Complainant's Instagram application and that enables Internet users to save the content directly to their device is in controversy with the Developer Policies of the Complainant's parent company and serves to facilitate breach of Instagram Terms of Use and as such cannot be observed as a use in good faith.

## **B. Respondent**

The Respondent did not provide a formal response to the Complainant's contentions. Nonetheless, the Respondent has sent several informal communications to the Center that can be summarized in the following manner:

The Respondent is a hobbyist programmer and a student. The idea to purchase the disputed domain name came from his girlfriend, who noticed that tools like this were in demand. The Respondent bought the disputed domain name for his girlfriend as a gift, as she is not very familiar with using the Internet. The Respondent did not intend to use the disputed domain name in bad faith, nor to infringe upon the Complainant's trademark or to cause any harm.

Given the Respondent's current financial constraints, he is unable to hire legal representation. However, he is fully willing to transfer the domain to the Complainant without any monetary compensation, as his only objective is to resolve this dispute as swiftly and amicably as possible.

## **6. Discussion and Findings**

### **A. Consent to Transfer**

As indicated above, in its informal responses, the Respondent has consented to transfer of the disputed domain name to the Complainant. With respect to such consent from the Respondent, it is the duty of the Panel to consider whether such consent is sufficient to render a decision on transfer or other circumstances of the case at hand should be also taken into account.

In that sense, section 4.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)) considers whether a UDRP panel can decide a case based on a respondent's consent to transfer and stipulates the following:

"Where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the "standard settlement process" described above, but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis).

In some cases, despite such respondent consent, a panel may in its discretion still find it appropriate to proceed to a substantive decision on the merits. Scenarios in which a panel may find it appropriate to do so include (i) where the panel finds a broader interest in recording a substantive decision on the merits – notably recalling UDRP paragraph 4(b)(ii) discussing a pattern of bad faith conduct, (ii) where while consenting to the requested remedy the respondent has expressly disclaimed any bad faith, (iii) where the complainant has not agreed to accept such consent and has expressed a preference for a recorded decision, (iv) where there is ambiguity as to the scope of the respondent’s consent, or (v) where the panel wishes to be certain that the complainant has shown that it possesses relevant trademark rights.”

After reviewing the circumstances of the present case, the Panel has decided that it is more appropriate to proceed to a substantive decision on the merits for the following reasons:

1. The Respondent has not conceded that the three elements of paragraph 4(a) have been satisfied. In particular, the Respondent specifically denies any bad faith conduct in registration and use of the disputed domain name.
2. The Complainant has not agreed to a consent decision. On the contrary, the Complainant has explicitly disagreed with the initial proposal for amicable solution posed by the Respondent and has instead insisted on continuation of the proceedings.
3. The Panel also holds that there is a broader interest in reaching and recording a substantive decision on the merits, so that the conduct of the Respondent in this case, if found to have registered and used the disputed domain name in bad faith, can be taken into account by other future UDRP panels and in particular in connection with use of the disputed domain name for a specific website that offer services connected to the Complainant’s own services (see *Patriot Supply Store, Inc., d/b/a My Patriot Supply v. Domain May be for Sale, Check Afternic.Com Domain Admin, Domain Registries Foundation*, WIPO Case No. [D2016-1573](#)).

For the foregoing reasons, the Panel has decided to proceed with the decision on merits.

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

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

## **B. 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 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.

Although the addition of other terms, here “story” and “viewer”, 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 Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In addition, it is well established that ".info", as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark. [WIPO Overview 3.0](#), section 1.11.1.

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

### **C. 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.

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.

The Panel notes that there seems to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's INSTAGRAM trademark. There appears to be no element from which the Panel could infer the Respondent's rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The services offered on the website to which the disputed domain name used to resolve are not authorized by the Complainant despite the website's explicit references to the Complainant and its trademark, falsely reinforcing the notion that such website and disputed domain name are somehow affiliated with the Complainant. Indeed, the similarity between the disputed domain name, its associated website, and the Complainant's trademark appear designed to mislead Internet users who mistakenly believe that the Respondent's website is sponsored by the Complainant. Such use cannot constitute a bone fide offering nor represent fair use.

Having in mind the above, the Panel finds the second element of the Policy has been established.

### **D. 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have been well-aware of the Complainant and its INSTAGRAM trademark at the time of the registration of the disputed domain name. Namely, the Complainant's INSTAGRAM trademark should be considered as a well-known trademark due to its exceptional presence in everyday life for over a decade. At the time of the registration of the disputed domain name, the Complainant's Instagram application has already surpassed 2 billion users worldwide, making it one of the most popular applications in the world, so it would be rather unlikely that the Respondent was not aware of the Complainant's trademark. Furthermore, the choice of the additional words "story" and "viewer" indicates the Respondent's awareness of the Complainant's INSTAGRAM trademark, having in mind that the stories that can be viewed by Internet users are one of the features of Instagram application. Finally, the content of the website to which the disputed domain name used to resolve leaves no room for a doubt on the Respondent's knowledge of the Complainant and its INSTAGRAM trademark and evidences that the Respondent actually had the Complainant in mind when registering the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

Further, based on the undisputed evidence provided by the Complainant (and confirmed by the Panel's own limited factual research), the disputed domain name was used for a website that purported to offer a free tool to view content on the Complainant's Instagram application, including posts, stories and reels anonymously and enabling Internet users to save the content directly to their device. As a matter of fact, the Respondent in its unofficial communications did not dispute such use of the disputed domain name and has merely indicated that the website was created "based on the idea from his girlfriend". The Panel considers such use as prima facie evidence of bad faith use given that the Respondent has admitted to using the confusingly similar disputed domain name to mislead Internet users expecting to find a website affiliated with or connected to the Complainant, which falls squarely within paragraph 4(b)(iv) of the Policy.

The fact that the disputed domain name no longer resolves to an active website does not impact the above findings. Namely, given the fame of the Complainant's trademark, the composition of the disputed domain name, and the use to which the disputed domain name had been put, the current passive holding of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

Therefore, the Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently 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 <instagramstoryviewer.info> be transferred to the Complainant.

*/Stefan Bojovic/*

**Stefan Bojovic**

Sole Panelist

Date: September 2, 2024