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1924 08/10/2021
Dr. Vedula Gopinath & V K chennu
for Whom.....

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B. ARUN KUMAR
LICENCED STAMP VENDOR
L.No.03-13-002/2000, R.L.No.03-013-008
127-249, Vepagunta, Visakhapatnam
11-0101174122

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1465 Dated 17th December 2021

In the matter of Arbitration between

Instagram, LLC

1601 Willow Road

Menlo Park, California 94025 USA

Complainant

AND

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asldal

asdkakdkk2k2

California Texas 90001 USA

Respondent



V. Gopinath
ARBITRAL TRIBUNAL
Dr. VEDULA GOPINATH
SOLE ARBITRATOR

- I. Complainant in this administrative proceedings is Instagram LLC an American corporation with its principal place of business at 1601 Willow Road, Menlo Park, California, 94025, United States of America.
- I. A. . The Complainant's authorized representative in this administrative proceeding is: Name: David Taylor / Jane Seager Address: Hogan Lovells (Paris) LLP 17, avenue Matignon 75008 Email: domaindisputes@hoganlovells.com

B RESPONDENT

According to the WHOIS database, the Respondent's organization in this administrative proceeding is asldal, based in Texas, United States of America (WHOIS report As er Annex 3. of the complaint.)

II. DISPUTED NAME AND REGISTRY


a.The following name is the subject of this complainant

LNSTAGRAM.IN . The WHOIS database indicates that the Domain Name was registered by the Respondent on 14 August 2020 (Annex 3 of complaint).

B The Registry is the National internet Exchange of India (NIXI).

c. . The sponsoring Registrar with which the Domain Name is registered is Wild West Domains, LLC: Address: 14455 North Hayden Rd Suite 219 Scottsdale AZ 85260 United States of America Telephone: +1 4805058800 Email: support@wildwestdomains.com




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III. PROCEDURAL HISTORY / BACK GROUND :

03-12-2021	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
03-12-2021	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY according to the INDRP Rules of Procedure.
03-12-2021	.1N REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent.
04-12-2021	Notices of Arbitration was sent to all concern by the Sole Arbitrator.
06-12-2021	Notice was sent by Arbitrator to the Respondent by e-mail directing him to file his response within 7 days, marking a copy of the same to the Complainant's representative and .1N Registry.

All pleadings are communicated through electronic mode.

IV. COMPLAINANT'S DETAILS

The Complainant is a world-renowned leading online photo and video sharing social networking application. Since it was launched on 6 October 2010, Instagram rapidly developed considerable goodwill and renown worldwide. Acquired by Facebook in 2012, Instagram currently has over 1 billion monthly active users and 500 million daily active users. It is to be claimed one of the fastest growing social media in the world and has consistently ranked amongst the top "apps" for mobile devices. Instagram is claimed to be the 3rd most downloaded app both in the world and in India and 6th in the United States.



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V. COMPLAINANT'S CONTENTIONS

1. The Complainant owns numerous trade mark registrations in the term INSTAGRAM in many jurisdictions throughout the world, including in India and in the United States such as

- Indian Trade mark No. 3042394, INSTAGRAM, registered on 27 August 2015;
- United States Trade mark No. 4146057, INSTAGRAM, registered on 22 May 2012 (first use in commerce on 6 October 2010); and – International Trade mark No. 1129314, INSTAGRAM, registered on 15 March 2012 . Copies of these trade mark registrations are attached at Annex 5 of complaint.

2. The Complainant claims to be the owner of numerous domain names consisting of the term INSTAGRAM under generic extensions, for instance, and , as well as under various country code extensions, such as and (India), (United States), (Austria), and (Brazil), (China), (Denmark), (Ecuador), (Haiti), (Germany), (Israel), (Jordan), (Macedonia), (Pakistan), (Russia), (Sri Lanka), (Switzerland), (United Arab Emirates) and (Vietnam). Copies of the WHOIS records for some of the Complainant's domain names are provided at Annex 6. of the complaint.

3. The complainant contends that term INSTAGRAM is highly distinctive and exclusively associated with the Complainant. All search results obtained by typing the term INSTAGRAM into Google's search engine available at www.google.com and www.google.co.in

4. The Complainant was alerted to the fact that a typographical variation (i.e. "Instagram") of its distinctive INSTAGRAM trade mark was registered under the .IN country code Top-Level Domain (ccTLD) by the Respondent on 14 August 2020.

5. The Complainant alleges that that the Domain Name has never been actively used by the Respondent since its creation.

6. The Domain Name consists of a typo-squatted version of the Complainant's INSTAGRAM trade mark (the initial letter "I" has been replaced by the letter "L"), which is deceptively similar to the Complainant's trade mark notably in lower case letters.



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7. Other panels have given decisions in favour of the Complainant in similar circumstances and situation. . See, for example, Instagram, LLC v. Contact Privacy Inc. Customer 0154295130 / Carlos Alberto Bejarano, WIPO Case No. D2019-1089 (): "The substitution of an "I" in place of the first and seventh letters of the disputed domain name does not avoid the confusing similarity between the disputed domain name and the Complainant's trade mark.


VI. DISCUSSION AND FINDINGS/REASONING :

(a) .IN Domain Name Dispute Resolution Policy (INDRP).

The Arbitral Tribunal after examination of the matter in details arrived in the following conclusion of Complainant's Compliance of INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, according, prove all the following three elements to paragraph 4 of the Policy.

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.
- (iv) Further pursuant to paragraph 6 & 7 of INDRP Policy, the Respondent have no legitimate interest and the same have been used in bad faith.




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The Complainant has satisfied the aforesaid aspects to the satisfaction of the Arbitral Tribunal.

- (b) It has been contended that Respondent is only using the Disputed Domain Name in a way to create a likelihood of confusion in the minds of the public as to the source of the products and services offered.
- (c) In case of failure or default of Respondent in sending response or reply to the complaint, the Arbitrator is empowered to announce the judgment as thinks proper and appropriate as per applicable laws. The Respondent prefers not to reply to the notices of Arbitral Tribunal as well as complaint sent to the Respondent.
- (d) In accordance with the Domain Name Dispute Resolution Policy, the contested Domain Name LNSTAGRAM.IN is identical to the registered Trade Mark as well as Trading Name of the Complainant.
- (e) The Complainant quoted few decisions by other Panels which were decided in similar facts which are agreed by the Arbitral Tribunal.




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VII. In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the Complainant.

VIII.DECISION:

For all the foregoing reasons, in accordance with paragraph 10 of the .INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark "INSTAGRAM " and also the disputed Domain Name i.e., LNSTAGRAM.IN be transferred to the Complainant. There is no order as to costs.


National Internet Exchange of India (NIXI) are advised to take incidental or ancillary action involved in the transfer of the Domain Name as directed.

This is adjudicated and ordered. I have made and signed this Arbitration Award on 17th December 2021 at Visakhapatnam Andhra Pradesh, India.

Visakhapatnam

Dated 17th December 2021




Dr. Vedula Gopinath
Sole Arbitrator

Dr. Vedula Gopinath
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