

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. hao su
Case No. D2022-4574

1. The Parties

The Complainants are Meta Platforms, Inc. and Meta Platforms Technologies, LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is hao su, China.

2. The Domain Names and Registrar

The disputed domain names <metaquestplus.com> and <metaquestplus.net> are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 1, 2022, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on December 6, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on December 7, 2022.

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 December 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2022. The Response was filed with the Center on December 30, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on January 11, 2023. 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 language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

According to information in the Complaint, the Complainant Meta Platforms, Inc. (the "First Complainant") is a United States social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), Portal, and WhatsApp. The First Complainant, formerly known as Facebook Inc., announced its change of name to Meta Platforms Inc. on October 28, 2021, and this was publicized worldwide. The Complainant Meta Platforms Technologies, LLC (the "Second Complainant") is the intellectual property rights holder for various technologies owned by the First Complainant. The Second Complainant is a distributor of various virtual reality ("VR") headsets, including the "Meta Quest" VR headsets).

The Complainants own many trademark registrations for META and QUEST respectively, including the following:

- the United States trademark registration for META, registered under No. 5,548,121 as of August 28, 2018;
- the European Union trademark registration for QUEST, registered under No. 017961685 as of June 16, 2020.

The disputed domain names were respectively registered on February 4, 2022, and February 5, 2022. The disputed domain names resolve to parking pages, each of which lists the respective disputed domain name for sale for a "Buy now" price of USD 5,000.

5. Parties' Contentions

A. Complainants

The Complainants argue that they own numerous trademark registrations for META and QUEST in jurisdictions throughout the world and have therefore established trademark rights in META and QUEST for purposes of paragraph 4(a)(i) of the Policy. In addition, the Complainants submit that the presence of the META and QUEST trademarks in the disputed domain names in their entirety is sufficient to establish confusing similarity between the disputed domain names and the Complainants' trademarks. The addition of the term "plus" to the Complainants' META and QUEST trademarks does not prevent a finding of confusing similarity.

With respect to the second element, the Complainants argue that the Respondent is not a licensee of the Complainants. The Respondent is not affiliated with the Complainants in any way. The Complainants have not granted any authorization for the Respondent to make use of its META and QUEST trademarks, in a domain name or otherwise. The disputed domain names resolve to parking pages that list the respective domain names for sale. The Complainants submit that merely parking a domain name for sale does not amount to a *bona fide* offering of goods or services and does not give rise to rights or legitimate interests. Nor is there any evidence of the Respondent having made demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services. In addition, there is no evidence to suggest that the Respondent is commonly known by the disputed domain names.

As regards the third element, the Complainants argue that the rebranding from Oculus Quest to Meta Quest was widely publicized in late October 2021, a couple of months prior to the Respondent's registration of the disputed domain names. When combined, the trademarks META and QUEST form a distinctive combination that is readily associated with the Complainants. As such, the Complainants submit that the Respondent could not credibly argue that it did not have knowledge of the Complainants' META and QUEST trademarks when registering the disputed domain names in February 2022. Given that the Respondent has listed each of the disputed domain names for sale, the Complainants infer that the Respondent registered the disputed domain names opportunistically, primarily for the purpose of selling, renting, or otherwise transferring the disputed domain names to the Complainants, or to a competitor of the Complainants, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain names, in bad faith pursuant to paragraph 4(b)(i) of the Policy.

B. Respondent

The Respondent has submitted an informal late response. In his correspondence, the Respondent argues that although he is aware of the Complainants, it is impossible for him to know all trademarks of the other party. The Respondent denies having registered the disputed domain names in bad faith. As regards its choice for the disputed domain names, the Respondent claims that "Meta" is a universal lexical prefix, such as metadata, metalanguage, etc. With respect to "QuestPlus" the Respondent contends that there are various sources on the Internet referring to this combination of words.

Moreover, the Respondent argues that he has registered the disputed domain names for his open-source project and that the websites will also be an open-source project. Moreover, the Respondent has never done any commercial activities related to the disputed domain names such as publicity and sales and has never maliciously used the disputed domain names. He has never contacted the Complainants to obtain illegal gains.

6. Discussion and Findings

6.1. Multiple Complainants

The Complainants argue that the consolidation of multiple complainants is appropriate in the present proceeding, and would not have any unfairly prejudicial effect on the Respondent. The Complainants contend that the Second Complainant, the owner of trademark registrations for QUEST, is a wholly-owned subsidiary of the First Complainant, the owner of trademark registrations for META. As such, the two entities have a sufficient common legal interest in the META and QUEST trademarks included in the disputed domain names to file a joint Complaint. In addition, the Complainants have been the target of common conduct by the Respondent, who has engaged in bad faith registration and use of the disputed domain names comprising their trademarks.

According to section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[when] assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation".

The Second Complainant is a wholly owned subsidiary of the First Complainant; hence the co-Complainants have a common grievance against the Respondent, as they share common interests. In the circumstances, and absence of any objection on behalf of the Respondent, the Panel accepts the single consolidated Complaint against the Respondent, which it finds fair and equitable to all the parties and will accept both Complainants as party to the proceedings.

6.2. Late Response

Paragraph 14(a) of the Rules provides that, in the event of a late response, absent exceptional circumstances, panels shall proceed to a decision based solely on the complaint. On the other hand, paragraph 10(b) of the Rules requires panels to ensure that parties are treated with equality and that each party is given a fair opportunity to present its case.

The Response was filed one day late. Based on the overall circumstances of the case, and also taking into account the fact that the Response was filed before the appointment of the Panel, and that the delay has not delayed the resolution of this proceeding – and also bearing in mind the Panel's obligations under paragraph 10(b) of the Rules – the Panel accepts the late filing of the Response.

6.3. Substantive matters

Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following elements:

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

A. Identical or Confusingly Similar

The panel accepts that the Complainants have proved rights over the META and QUEST trademarks. Further, noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element. See [WIPO Overview 3.0](#), section 1.1.2.

The disputed domain names incorporate the trademarks META and QUEST in their entirety, with the only difference that in the disputed domain names the word “plus” is added, which does not in the view of the Panel prevent the Complainants' trademark from being recognizable within the disputed domain names. The addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name or a domain name which consists of a common, obvious, or intentional misspelling of a trademark would not prevent a finding of confusing similarity for purposes of the first element. See sections 1.8 and 1.9 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top Level Domain (“gTLD”), such as “.com” or “.net”, is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain names are confusingly similar to the Complainants' trademarks and therefore finds that the Complainants have satisfied the standing requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainants have the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

As established by previous UDRP panels, it is sufficient for the Complainants to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain names in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainants have established a *prima facie* case that they hold rights over the META and QUEST trademarks and claim that the Respondent has no legitimate reason to acquire and use the disputed domain names. There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services. On the contrary, as the Complainants demonstrated, the disputed domain names resolve to pages where they were being offered for sale for USD 5,000. Presumably, and absent evidence from the Respondent to the contrary, this exceeds the Respondent's out-of-pocket costs for acquiring the disputed domain names. Furthermore, the nature of the disputed domain names, comprising the Complainants' trademark in its entirety, cannot be considered fair as it falsely suggests an affiliation with the Complainants that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainants have made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. Although the Respondent claims that the disputed domain names were registered for an open-source project, they are listed for sale, and he did not provide any evidence of any preparations to develop such project, or the reason why the combined trademarks of the Complainants would be required for such project, therefore the *prima facie* case made by the Complainants has not been rebutted. Also, the Complainants argue that the disputed domain names are being offered for sale for an amount exceeding the out-of-pocket costs for registration which cannot constitute fair use, as this signals an intent on the part of the Respondent to derive commercial gain from the resale of the disputed domain names. The Respondent did not address this allegation in his Response.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainants must establish that the disputed domain names have been registered and are being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain names' registration and use in bad faith.

The Complainants' registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain names. The Respondent confirmed he has knowledge of the Complainants. Under these circumstances, and also given the distinctiveness of the Complainants' trademarks, as well as the combined use of the Complainants' trademarks in the disputed domain names, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainants' trademarks, and to target those trademarks. In this respect, the Panel agrees with the Complainants that when combined, the trademarks META and QUEST form a distinctive combination that is readily associated with the Complainants. For the same reason, the arguments of the Respondent, which seem to imply that the disputed domain names were registered in view of the descriptive nature of the trademarks, are unconvincing.

The Complainants have proved that the disputed domain names are being offered for sale. This, in view of the finding that the Respondent has no right to or legitimate interest in the disputed domain names, appears to signal an intention on the part of the Respondent to derive commercial gain from the resale of the disputed domain names riding on the reputation of the Complainants' trademarks. The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

The Panel finds that passive holding of the disputed domain names does not in the circumstances of this case prevent a finding of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence as to the contrary. Consequently, the

Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

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, <metaquestplus.com> and <metaquestplus.net> be transferred to the First Complainant., Meta Platforms, Inc.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: January 25, 2023