

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc., Meta Platforms Technologies, LLC v. 应潇毅
(Ying Xiao Yi)
Case No. D2023-4401

1. The Parties

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

The Respondent is 应潇毅 (Ying Xiao Yi), China.

2. The Domain Name and Registrar

The disputed domain name <metaquest.fun> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 25, 2023, 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.

On October 25, 2023, the Center informed the parties in Chinese and English that the language of the registration agreement for the disputed domain name is Chinese. On October 25, 2023, the Complainants confirmed the request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainants’ submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on October 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2023.

The Center appointed Jonathan Agmon as the sole panelist in this matter on November 23, 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.

4. Factual Background

The Complainants are Meta Platforms, Inc. and Meta Platforms Technologies, LLC.

Meta Platforms, Inc. (hereafter referred to as "MPI") is a U.S. social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp. MPI's focus is to bring the metaverse to life and to help people connect, find communities and grow businesses. Meta Platforms Technologies, LLC (hereafter referred to as "MPT"), is a wholly-owned subsidiary of MPI, and is the intellectual property rights holder for various technologies owned by MPI. MPT initially operated under the corporate name of its predecessor in interest, Oculus VR, LLC, and then changed its name to Facebook Technologies, LLC in 2018.

The Complainants produced evidence showing that MPI and/or MPT are the registered owners of numerous trademarks containing the terms "meta" and "quest" in many jurisdictions around the world, including the following:

- U.S. Trademark Registration No. 5548121 for META, registered on August 28, 2018;
- Chinese Trademark Registration No. 33818197 for QUEST, registered on June 14, 2019.
- European Union Trademark Registration No. 017961685 for QUEST, registered on June 16, 2020; and
- U.S. Trademark Registration No. 6279215 for QUEST, registered on February 23, 2021.

The Complainants state that they have made substantial investments to develop a strong presence online by being active on various social media platforms, including Facebook, X (formerly Twitter), and LinkedIn. For instance, MPI's official page on Facebook has over 79 million "likes" and 13.9 million followers on X.

MPT is the registrant of numerous domain names consisting of or including the META trademark under a range of generic Top-Level Domains ("gTLDs") such as <workplacefrommeta.com>, <facebookfrommeta.com>, <instagramfrommeta.com>, <jobsatmeta.com>, <meta.com>, <meta.day>, <whatsappfrommeta.com>, and <questfrommeta.com>.

The disputed domain name was registered on October 29, 2021. At the time of the filing of the Complaint, the disputed domain name resolved to a Dan.com parking page with the description "The owner of the domain name uses the name servers of Dan.com but has not yet added the name to their portfolio". Based on the evidence provided by the Complainants, the disputed domain name previously redirected to a different Dan.com parking page where the dispute domain name was listed for sale.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that:

1. The disputed domain name is identical or confusingly similar to the Complainants' trademarks in which the Complainants have rights. The disputed domain name incorporates both the META and QUEST trademarks in their entirety, with the addition of the gTLD ".fun".

2. The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not using the disputed domain name in connection with any *bona fide* offering of goods or services. The Respondent is not a licensee of the Complainants nor affiliated with the Complainants in any way. The Complainants have not granted any authorization for the Respondent to make use of the META, and QUEST trademarks, in a domain name or otherwise. The disputed domain name redirected to a Dan.com parking page, where it was previously offered for sale. Such use of the disputed domain name clearly indicates the Respondent's intent to profit from the goodwill and reputation associated with the Complainants' trademarks, which cannot amount to *bona fide* use within the meaning of paragraph 4(c)(i) the Policy.
3. There is no evidence of the Respondent having made demonstrable preparations to use the disputed domain name. There is no evidence to suggest that the Respondent is commonly known by the disputed domain name. The Respondent's name bears no resemblance to the disputed domain name. To the best of the Complainants' knowledge, the Respondent has never secured or attempted to secure any trademark rights for META, or QUEST or any variation thereof. The Respondent's listing of the disputed domain name for sale via the Dan.com parking pages does not give rise to any legitimate claim of being commonly known by the disputed domain name, nor does it give rise to any reputation in the disputed domain name, independent of the Complainants' trademark rights.
4. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers within the meaning of paragraph 4(c)(iii) of the Policy. By reflecting the Complainants' trademarks and their "Meta Quest" product name in the disputed domain name, the composition of the disputed domain name carries a high risk of implied affiliation with the Complainants which does not exist. The fact that the disputed domain name was previously listed for sale on the Dan.com website signals an intent on the part of the Respondent to trade upon the reputation and goodwill attached to the Complainants' trademarks, which cannot constitute legitimate noncommercial or fair use under the Policy. In any event, the Respondent's current non-use of the disputed domain name cannot confer any rights or legitimate interests on the disputed domain name.
5. The disputed domain name was registered and is being used in bad faith. The disputed domain name was clearly registered in an attempt to target the Complainants' trademarks. The combination of the Complainants' META and QUEST trademarks are highly distinctive and exclusively associated with their services. Although the Complainants' products and services are currently not accessible in China, the Complainants have received substantial media attention in relation to the success and popularity of their VR products as well as the change of its product name from "Oculus Quest" to "Meta Quest". UDRP panels in prior cases have recognized the strength and renown of the Complainants' META and QUEST trademarks and have ordered the transfer of other domain names in dispute to the Complainants. The disputed domain name was registered only a day after the Complainants' rebranding from Oculus Quest to Meta Quest which was widely publicized by the Chinese press. The Respondent cannot credibly argue that he did not have knowledge of the Complainants' META QUEST, META, and QUEST trademarks.
6. Past UDRP panels have held that the resale of a domain name registered under the circumstances described above amounts to use in bad faith for the purposes of paragraph 4(a)(iii) of the Policy. The fact that the disputed domain name is no longer listed for sale cannot cure the Respondent's bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Preliminary Issues

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainants requested that the language of the proceeding be English for several reasons, including the fact that:

- (i) the disputed domain name consists of Latin characters rather than Chinese characters;
- (ii) the disputed domain name has a gTLD comprising the English term “fun”;
- (iii) the disputed domain name points to a Dan.com page in English, which suggests that the Respondent is able to understand English; and
- (iv) requiring the Complaint to be translated into Chinese would result in the proceedings being unduly delayed and the Complainants having to incur substantial expenses for translation.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

B. Consolidation of Multiple Complainants

The Complaint was filed by two Complainants against a single Respondent.

The Complainants submitted that neither the Policy nor the Rules expressly provides for or prohibits the consolidation of multiple complainants and cited section 4.11.1 of the [WIPO Overview 3.0](#), which states that:

“In 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.”

Both Complainants form part of the same corporate group. MPT is a wholly-owned subsidiary of MPI. MPI is the registered owner of the above-mentioned META trademark, while MPT is the registered owner of the above-mentioned QUEST trademark.

The Panel finds that the Complainants have a common grievance against the Respondent as they have a common legal interest in the trademarks on which this Complaint is based, and it is equitable and procedurally efficient to permit the consolidation of their complaints.

6.2 Substantive Issues

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 Complainants' trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainants have shown rights in respect of the trademarks or service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name consists of the Complainants' META and QUEST marks in their entirety, with the addition of the gTLD ".fun".

The Panel finds the entirety of the marks are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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 Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' *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 Complainants' registration of their respective trademarks predates the registration of the disputed domain name. The disputed domain name redirected to a Dan.com webpage where it was previously listed for sale. There is no objective evidence showing that the Respondent is using or has made any preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial or fair use purpose.

The Panel also finds that the use of the Complainants' trademarks, META, and QUEST in their entirety carries a high risk that the disputed domain name would be perceived by Internet users to be affiliated with the legitimate holder of the trademarks, *i.e.* the Complainants. See [WIPO Overview 3.0](#), section 2.5.1. It has been held by prior UDRP panels that where a domain name consists of a trademark, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The Respondent's choice of a combination of well-known trademarks associated with the Complainants show a clear intent to mislead unsuspecting Internet users expecting to find the Complainant and instead are redirected to a website where the disputed domain name was previously listed for sale, reinforcing the notion that the Respondent's intent was and is commercial gain.

There is no evidence to suggest that the Respondent is commonly known by the 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, the Panel notes that the Respondent registered the disputed domain name long after the Complainants registered its META and/or QUEST trademarks. Given the distinctiveness of the Complainants' marks and their good will, it is highly unlikely that the Respondent did not know of the Complainants and their META and/or QUEST mark prior to the registration of the disputed domain name.

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. The fact that the Respondent had previously listed the disputed domain name for sale on a Dan.com webpage is strong evidence of bad faith under the paragraph 4(b)(i) of the Policy.

At the time of the filing of the Complaint, the disputed domain name resolved to a Dan.com parking page with the description "The owner of the domain name uses the name servers of Dan.com but has not yet added the name to their portfolio". Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainants' trademarks, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel also draws an adverse inference from the Respondent's failure to file any Response or to rebut the Complainants' assertions and agrees that the circumstances constitute evidence of bad faith registration and use under the Policy.

Based on the available record, the Panel finds that the Complainants have 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 <metaquest.fun> be transferred to the Complainant Meta Platforms, Inc.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: December 7, 2023