

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. caocan
Case No. D2022-3014

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 caocan, China.

2. The Domain Name and Registrar

The disputed domain name <metaquestpro.com> is registered with 22net, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on August 18, 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 in English on August 25, 2022.

On August 18, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 18, 2022, the Complainants confirmed its request that English be the language of the proceeding. The Respondent sent several email communications to the Center on the same day requesting *inter alia* that Chinese be the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on August 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2022. The Respondent sent several emails to the Center between August 18, 2022 and August 25, 2022, but did not submit any formal response. On September 20, 2022, the Center notified the Parties that it would proceed with the panel appointment process.

The Center appointed Sok Ling MOI as the sole panelist in this matter on October 4, 2022. 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, Meta Platforms Technologies, LLC, is a wholly-owned subsidiary of the Complainant, Meta Platforms, Inc. The Complainant, Meta Platforms, Inc. (formally known as “Facebook, Inc.”) is a social technology company which operates Facebook, Instagram, WhatsApp and Meta Quest (formerly known as “Oculus”). The Complainant, Meta Platforms Technologies, LLC (formerly known as “Facebook Technologies, LLC”) is a distributor of virtual reality (“VR”) headsets, including the “Meta Quest” VR headsets.

The Complainants own numerous trade mark registrations for META and QUEST respectively in various jurisdictions, including the following:

- United States Trade Mark Registration No. 5548121 for META, registered on August 28, 2018 and assigned to the Complainant on October 26, 2021;
- United States Trade Mark Registration No. 6279215 for QUEST, registered on February 23, 2021;
- European Union Trade Mark No. 017961685 for QUEST, registered on June 16, 2020; and
- China Trade Mark Registration No. 33818197 for QUEST, registered on June 14, 2019.

The Complainants maintain a strong online presence on the various social media platforms, such as Facebook, Twitter, Instagram, Youtube and LinkedIn. The Complainants also own numerous domain names consisting of or incorporating the META and QUEST trade marks, such as <meta.com> and <questfrommeta.com>.

The disputed domain name was registered on November 5, 2021. As at the date of this decision and according to the Complaint, the disputed domain name does not resolve to any active website but is being passively held.

5. Parties’ Contentions

A. Complainant

The Complainants contend that the disputed domain name is confusingly similar to its META and QUEST trade marks, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainants request for the transfer of the disputed domain name to the Complainant, Meta Platforms, Inc.

B. Respondent

The Respondent did not file a formal response to the Complaint. However, via emails to the Center, the Respondent contends that the Complainants do not have effective trade mark registrations regarding META

or QUEST in China. The Respondent claims to have rights or legitimate interest in the disputed domain name, in that the disputed domain name was related to and derived from the concept of “meta-verse exploration/quest”. The Respondent further contends that the disputed domain name does not resolve to any website with advertising or sponsored links, nor has it been used in connection with an offering of goods or services competitive to the Complainants’ business. The Respondent also contends that “meta-formative” domain names are commonly registered by various persons and organizations in anticipation of the growth of the meta-verse, without any bad faith intention. Finally, the Respondent contends that name change of the Complainants’ VR product from “Oculus Quest” to “Meta Quest” officially took place on January 27, 2022, subsequent to the Respondent’s registration of the disputed domain name on November 5, 2021.

The Respondent contends that for the above reasons, the Complainants have not satisfied the requirements of the three elements under paragraph 4(a) of the Policy.

6. Discussion and Findings

6.1 Procedural Issues

A. Consolidation of Multiple Complainants

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

Neither the Policy nor the Rules expressly provides for or prohibits the consolidation of multiple complainants. In this regard, section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) 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. The Complainant, Meta Platforms Technologies, LLC, is a wholly-owned subsidiary of the Complainant, Meta Platforms, Inc. The Complainant, Meta Platforms, Inc., is the registered owner of the above-mentioned META trade mark, while the Complainant, Meta Platforms Technologies, LLC, is the registered owner of the above-mentioned QUEST trade mark and also the beneficial owner of these two trade marks as it distributes VR headsets under the brand of “Meta Quest”.

The Panel finds that the Complainants have a common grievance against the domain name registrant as they have a common legal interest in the trade mark rights on which this Complaint is based, and it is equitable and procedurally efficient to permit the consolidation of their complaints. Therefore, the Complainants are referred to collectively as “the Complainant” below except as otherwise indicated.

B. Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the proceeding takes place with due expedition and that the Parties are treated equitably and given a fair opportunity to present their respective cases.

The language of the Registration Agreement for the disputed domain name is Chinese. From the evidence on record, no agreement appears to have been entered into between the Complainant and the Respondent regarding the language issue. The Complainant filed its Complaint in English and has requested that English be the language of the proceeding. The Respondent claimed to have limited knowledge of English and requested that Chinese be the language of the proceeding.

The Panel finds persuasive evidence in the present proceeding to suggest that the Respondent has knowledge of English. In particular, the Panel notes that:

- (a) the disputed domain name is registered in Latin characters, rather than Chinese script;
- (b) the disputed domain name comprises the English words “meta”, “quest” and “pro”; and
- (c) the content of an email sent from the Respondent on August 25, 2022 was entirely in English with the English words “submit proofs” and links to two articles in English.

Additionally, the Panel notes that:

- (a) the Center has notified the Respondent of the proceeding in both Chinese and English; and
- (b) the Center has informed the Respondent that it would accept a Response in either English or Chinese.

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to all Parties and is not prejudicial to any of the Parties in their ability to articulate the arguments for this case. The Panel has taken into consideration the fact that to require the Complaint and all supporting documents to be translated into Chinese would, in the circumstances of this case, cause an unnecessary cost burden to the Complainant and would unnecessarily delay the proceeding.

In view of all the above, the Panel determines under paragraph 11(a) of the Rules that it shall accept the Complaint and all supporting materials as filed in English, that English shall be the language of the proceeding, and that the decision will be rendered in English. The Panel also accepts the Respondent's email communications sent in Chinese and English.

6.2 Substantive Findings

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following three elements to obtain an order for the disputed domain name to be cancelled or transferred:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights;
- (ii) the 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.

On the basis of the arguments and evidence introduced by the Complainant, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the META and QUEST marks by virtue of its use and registration of the same as a trade mark. Further, noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trade mark 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 name effectively incorporates the Complainant's META and QUEST trade marks in their entirety. The addition of the term "pro" does not prevent a finding of confusing similarity in this case. The addition of the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and is generally disregarded for the purpose of the confusing similarity assessment.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's META and QUEST trade marks.

Accordingly, the Complainant has satisfied the requirements of the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant bears the burden of establishing that the respondent lacks rights or legitimate interests in the domain name. However, once the complainant makes out a *prima facie* showing under paragraph 4(a)(ii) of the Policy, the burden of production shifts to the respondent to establish its rights or legitimate interests in the domain name by demonstrating any of the following, without limitation, under paragraph 4(c) of the Policy:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

(See *Taylor Wimpey PLC, Taylor Wimpey Holdings Limited v. honghao Internet foshan co, ltd*, WIPO Case No. [D2013-0974](#).)

The Complainant has confirmed that the Respondent is not in any way affiliated with the Complainant or otherwise authorized or licensed to use the META trade mark or the QUEST trade mark or to seek registration of any domain name incorporating either of these two trade marks. The Respondent appears to be an individual by the name of "caocan". There is no evidence suggesting that the Respondent is commonly known by the disputed domain name or has acquired any trade mark rights in the term "meta" or "quest" or a combination thereof.

As the disputed domain name does not resolve to any active website, there is no objective evidence to suggest 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. Further, according to the evidence submitted by the Complainant, the disputed domain name is being offered for sale via Sedo.com with a "Buy Now" price of USD 39,000. Presumably, this far exceeds the Respondent's out-of-pocket costs for acquiring the disputed domain name.

As such, the Panel is satisfied that the Complainant has made out a *prima facie* case showing that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of production thus shifts to the Respondent to establish its rights or legitimate interests in the disputed domain name. Although the Respondent claims that the disputed domain name was related to and derived from the concept of "meta-verse exploration", he did not provide any evidence to show the intended use of the disputed domain name or to support a right or legitimate interest in the disputed domain name, and so the *prima facie* case has not been rebutted.

Consequently, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied the requirements of the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

- (i) circumstances indicating that the respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the respondent has registered the disputed domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel notes that as at the date of this decision and according to the Complaint, the disputed domain name does not resolve to any active website but is being passively held. Nevertheless, the consensus view of previous UDRP panels is that passive holding in itself does not preclude a finding of bad faith. The panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. See [WIPO Overview 3.0](#), section 3.3.

The Respondent's registration of the disputed domain name (on November 5, 2021) took place merely days after the announcement of the renaming of "Facebook, Inc." to "Meta Platforms, Inc." and the rebranding of the Complainant's VR product from "Oculus Quest" to "Meta Quest" (on October 28, 2021). The question is whether the Respondent was aware of the Complainant's META and QUEST trade marks at the time of registration of the disputed domain name, given the limited time for publicity. The Panel looks to other circumstances to answer this question.

According to the evidence submitted by the Complainant, the Respondent had on the same day or in the days and weeks following the announcement of the Complainant's name change proceeded to register a number of META-formative domain names, including:

- <metaconn.cn> (November 2, 2021);
- <metaconn.com.cn> (November 2, 2021);
- <metadisplay.cn> (October 28, 2021);
- <metapartners.cn> (November 7, 2021);
- <metarea.cn> (November 13, 2021);
- <metateams.cn> (November 3, 2021);
- <metaton.cn> (October 28, 2021);
- <metatoon.cn> (November 16, 2021);
- <metaworkrooms.com.cn> (November 7, 2021);
- <metazoom.cn> (October 29, 2021).

Furthermore, according to the evidence submitted by the Complainant, the Respondent had registered a number of domain names comprising the Complainant's trade mark or well-known third-party trade marks, including:

- <alipaytech.cn>;
- <alipaytech.com.cn>;
- <baidu.co.at>;
- <facebooksmartlists.com>;
- <googleflight.net>;
- <googlevalentine.co>;
- <wsjshop.com>.

This suggests that the Respondent is engaged in a pattern of cybersquatting. The Panel therefore determines that the Respondent was most likely aware of the Complainant and its META and QUEST trade marks and had registered the disputed domain name for the purpose of preventing the Complainant from reflecting its trade mark in corresponding domain names. The circumstances referred to in paragraph 4(b)(ii) of the Policy are applicable.

The Panel also notes from the evidence submitted by the Complainant that the disputed domain name was being offered for sale via Sedo.com. This appears to signal an intention on the part of the Respondent to derive commercial gain from the resale of the disputed domain name riding on the reputation of the Complainant's trade marks. The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

In view of the above finding that the Respondent does not have rights or legitimate interests in the disputed domain name, and taking into account all the circumstances, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith.

Accordingly, the Complainant has satisfied the requirements of the third element under paragraph 4(a) 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 <metaquestpro.com> be transferred to the Complainant, Meta Platforms, Inc.

/Sok Ling MOI/

Sok Ling MOI

Sole Panelist

Date: November 11, 2022