

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc.¹ v. Nhan Nguyen
Case No. D2022-4409

1. The Parties

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

The Respondent is Nhan Nguyen, United States.

2. The Domain Name and Registrar

The disputed domain name <wwwloginfacebook.com> (the “Disputed Domain Name”) is registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 18, 2022. On November 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 21, 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 (on behalf of wwwloginfacebook.com Owner Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 23, 2022 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 November 28, 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 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Respondent did not submit any

¹ On October 28, 2021, the Complainant, formerly known as “Facebook, Inc.” changed its name to “Meta Platforms, Inc.” and the Complainant is in the process of updating its records to reflect its new name.

response. Accordingly, the Center notified the Respondent's default on December 23, 2022. The Center appointed Lynda M. Braun as the sole panelist in this matter on January 10, 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 Complainant is a United States social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), Portal, and WhatsApp. Since its launch in 2004, Facebook developed considerable renown and goodwill worldwide, with 1 million active users by the end of 2004, 100 million users by August 2008, 500 million users by July 2010, 1 billion users by September 2012 and 2.27 billion users as of September 2018.

The Complainant owns numerous trademark registrations for FACEBOOK in jurisdictions worldwide, including, but not limited to: FACEBOOK, United States Trademark Registration No. 3,041,791, registered on January 10, 2006 (first use in commerce in 2004); FACEBOOK, United States Trademark Registration No. 3,122,052, registered on July 25, 2006 (first use in commerce in 2004); FACEBOOK, European Union Trademark Registration No. 004535381, registered on June 22, 2011; and FACEBOOK, International Registration No. 1075094, registered on July 16, 2010. The aforementioned trademarks will hereinafter collectively be referred to as the "FACEBOOK Mark".

The Complainant owns the domain name <facebook.com>, which redirects to its official website at "www.facebook.com". The Complainant also owns and operates numerous other domain names consisting of the FACEBOOK Mark in combination with various generic and country code Top-Level-Domain extensions.

The Disputed Domain Name was registered on May 14, 2022, and the Disputed Domain Name redirected to a login page entitled "Social Networks Hack", which appeared to be linked to activities involving hacking social networks. At the time of submission of the Complaint, however, the Disputed Domain Name redirected to a website under construction.

The Complainant's attorneys sent a cease-and-desist letter to the Respondent on July 13, 2022 but received no response.

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's FACEBOOK Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith; and
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry, a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the FACEBOOK Mark.

It is uncontroverted that the Complainant has established rights in the FACEBOOK Mark based on its fame as well as its numerous registered trademarks for the FACEBOOK Mark in jurisdictions worldwide. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the FACEBOOK Mark.

The Disputed Domain Name consists of the FACEBOOK Mark in its entirety preceded by the prefix "www" and the term "login", and then followed by the generic Top-Level Domain ("gTLD") ".com". It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of [WIPO Overview 3.0](#), "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". The mere addition of the prefix, such as "www" and the term "login", to the Complainant's FACEBOOK Mark to create the Disputed Domain Name <wwwloginfacebook.com> cannot prevent confusing similarity. See *e.g.*, *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. [D2011-0795](#); and *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

Finally, the addition of a gTLD such as ".com" in a domain name is a technical requirement. Thus, it is well established that a gTLD may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Disputed Domain Name is confusingly similar to the Complainant's FACEBOOK Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

There is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the Disputed Domain Name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant's FACEBOOK Mark. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name nor has the Respondent made any demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

Moreover, the Complainant does not have any business relationship with the Respondent and based on the initial use made of the Disputed Domain Name to link to activities involving the hacking of social networks to assist third parties to gain unauthorized access to user accounts, the Panel finds that the Respondent is not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name. The use of the Disputed Domain Name for fraudulent activities cannot constitute a *bona fide* offering of goods or services under the Policy. See *Instagram, LLC v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2019-0621](#).

In the present case, the Complainant submits that the Disputed Domain Name, comprising the Complainant's FACEBOOK Mark together with the prefix "www" and the term "login", carries with it a high risk of implied affiliation with the Complainant, as users of the Complainant's services have to log in to their accounts in order to access such services, and therefore cannot give rise to any legitimate claim of fair use.

In sum, the Panel finds that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that, based on the record, the Complainant has demonstrated the Respondent's bad faith registration and use of the Disputed Domain Name pursuant to paragraph 4(b) of the Policy.

First, the fame of the FACEBOOK Mark, which was used and registered by the Complainant in advance of the Respondent's registration of the Disputed Domain Name, renders it wholly implausible that the Respondent created the Disputed Domain Name independently. The Disputed Domain Name was registered years after the Complainant first began using the FACEBOOK Mark. Therefore, the Panel finds it likely that the Respondent had the Complainant's FACEBOOK Mark in mind when registering the Disputed Domain Name, demonstrating bad faith. Based on the widespread use of the FACEBOOK Mark worldwide, it strains credulity to believe that the Respondent had not known of the Complainant or its FACEBOOK Mark when registering the Disputed Domain Name. Thus, as here, prior knowledge of a complainant's trademark before registering a disputed domain name is sufficient to find bad faith under Policy paragraph 4(a)(iii). In sum, UDRP panels have found that the registration of a disputed domain name that is confusingly similar to a well-known trademark by an unaffiliated entity can create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Second, based on the circumstances here, the Panel concludes that the Respondent's registration and use of the Disputed Domain Name had been done for the specific purpose of trading on the name and reputation of the Complainant and its FACEBOOK Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain").

Third, as noted above, the Disputed Domain Name initially resolved to a login page entitled "Social Networks Hack". The Complainant submits that such use appeared to be linked to activities involving the hacking of social networks, namely, assisting malicious third parties to gain unauthorized access to user accounts. Such use of the Disputed Domain Name for fraudulent activities constitutes use in bad faith.

Finally, the lack of response by the Respondent to the cease-and-desist letter sent by the Complainant's attorneys supports a finding of bad faith. Past UDRP panels have held that failure to respond to a cease-and-desist letter may be considered a factor in finding bad faith registration and use of a disputed domain name. See *WhatsApp LLC v. Bulk Whatsapp Software*, WIPO Case No. [D2021-0564](#) (respondent's failure to reply to the cease-and-desist letter was a circumstance pointing to bad faith registration and use of the disputed domain name); *Encyclopaedia Britannica, Inc. v. John Zuccarini and The Cupcake Patrol a/k/a Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#) (failure to respond to a demand letter provides "strong support for a determination of 'bad faith' registration and use").

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <www.loginfacebook.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: January 23, 2023