

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. kim
Case No. D2022-4985

1. The Parties

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

Respondent is kim, United States.

2. The Domain Name and Registrar

The disputed domain name <metaquest.vegas> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2022. On December 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 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 Complainants on December 28, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on December 31, 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 Respondent of the Complaint, and the proceedings commenced on January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 30, 2023. On February 7, 2023, the Center sent an email regarding the notification of the Complaint, extending the Response due date until February 12, 2023. Respondent did not submit any response.

The Center appointed Bradley A. Slutsky as the sole panelist in this matter on February 20, 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

Complainant Meta Platforms, Inc. describes itself as a social technology company that operates, among other things, Facebook, Instagram, Meta Quest, Portal, and WhatsApp. Complainant Meta Platforms Technologies, LLC describes itself as the intellectual property rights holder for various technologies owned by Complainant Meta Platforms, Inc. Complainants have numerous trademark registrations for META and QUEST around the world. These include United States Trademark Registration Number 5,548,121 for META in classes 35 and 42, registered on August 28, 2018, and Chinese Trademark Number 33818197 for QUEST, registered on June 14, 2019. The disputed domain name was registered on February 2, 2022, and leads to a parking page that states the disputed domain name is for sale. Exhibits to the Complaint also indicate that Respondent is the registrant of two other domain names incorporating the META and QUEST trademarks, as well as a domain name that uses the GITHUB trademark.

5. Parties' Contentions

A. Complainant

Complainants assert that the use of their trademarks META and QUEST in the disputed domain name makes the disputed domain name confusingly similar to their marks. Complainants also assert that Respondent is not licensed to use Complainants' marks, is not affiliated with Complainants, and is not authorized to use Complainants' marks in a domain name or otherwise. Complainants further assert that parking a domain name does not give rise to rights or legitimate interests, nor is there any evidence that Respondent made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering or goods or services. Complainants also note that there is no information associated with the Whois record or the website at the disputed domain name that indicates Respondent has been commonly known by the domain name, and that Respondent's name as disclosed by the Registrar is kim, rather than META or QUEST. Complainants note that the disputed domain name is being offered for sale, which indicates an intent to derive commercial gain rather than engage in fair use, and that the use of Complainants' marks carries a high risk of implied affiliation with Complainants. Complainants also assert that the disputed domain name is being used in bad faith because Complainants' marks are "well known throughout the world and closely associated with the Complainant[s]' goods and services" which are "used by billions of monthly active users across the globe". Therefore, Complainants assert that "Respondent could not credibly argue that it did not have knowledge of the Complainant's META and QUEST trade marks at the time of registration of the [disputed d]omain [n]ame". Complainants assert that the fact that Respondent is offering the disputed domain name for sale and has registered other domain names with Complainants' trademarks indicates that Respondent registered the disputed domain name in order to sell it, in bad faith. Complainants also assert that Respondent's registration of three other domain names using trademarks owned by Complainants and another entity establishes a bad faith pattern of conduct of preventing trademark owners from reflecting their trademarks in corresponding domain names. Complainants also assert that Respondent used false Whois information in bad faith, and that Respondent's failure to respond to a message sent by Complainants' attorneys also indicates bad faith.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Pursuant to paragraph 15(a) of the Rules, a panel in UDRP proceedings “shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Under paragraph 4(a) of the Policy, Complainants must prove the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant[s have] rights; and
- (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.

A. Consolidation of Multiple Complainants

As an initial matter, Complainants request that the Panel allow both of them to proceed as Complainants in this matter against Respondent. Complainants assert that the owner of the trademark META has changed its name to Complainant Meta Platforms, Inc., and the owner of the trademark QUEST has changed its name to Complainant Meta Platforms Technologies, LLC. The disputed domain name combines these trademarks and adds the “.vegas” generic Top-Level Domain (“gTLD”). Respondent has not objected to this request.

As noted in Section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[i]n 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”.

Complainant Meta Platforms Technologies, LLC is a wholly-owned subsidiary of Complainant Meta Platforms, Inc. Both of their trademarks are being used in the same way by the same Respondent. Accordingly, the Panel finds that it is sufficiently established that the Complainants have a specific common grievance against Respondent, that Respondent has engaged in common conduct that has affected Complainants in a similar fashion, and that it would be equitable and procedurally efficient to permit consolidation. See, e.g., *Meta Platforms, Inc. and Meta Platforms Technologies, LLC v caocan*, WIPO Case No. [D2022-3014](#); *Facebook, Inc., Instagram, LLC, WhatsApp Inc., Facebook Technologies, LLC v. Jurgen Neeme, hello@thedomain.io and Jay Neeme*, WIPO Case No. [D2019-1582](#). The Panel therefore permits Complainants to proceed jointly in this matter against the single Respondent.

B. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, Complainants must show that the disputed domain name is “identical or confusingly similar to a trademark or service mark in which Complainant[s have] rights”.

Complainants’ trademark registrations in the Annexes to the Complaint demonstrate that Complainants have rights in the META and QUEST marks.

The disputed domain name consists of Complainants’ META and QUEST trademarks, followed by the “.vegas” gTLD. Generally, “where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. The fact that Complainants’ two marks are combined in the disputed domain name does not change this conclusion. *Meta Platforms, Inc. and Instagram, LLC v Domains by Proxy, LLC / Bazyan Rafiq*, WIPO Case No.

[D2021-3626](#) (“[t]he combination of both Marks does not change that conclusion”). The addition of the “.vegas” gTLD also does not prevent a finding of confusing similarity between the disputed domain name and Complainants’ marks on the facts of this case. See [WIPO Overview 3.0](#), section 1.11.1 (“The applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to trademarks in which Complainants have rights, and that paragraph 4(a)(i) of the Policy is satisfied.

C. Rights or Legitimate Interests

Complainants also must demonstrate that Respondent has “no rights or legitimate interests in respect of the domain name”, paragraph 4(a)(ii) of the Policy.

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [Respondent’s] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to [Respondent] of the dispute, [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) [Respondent] (as an individual, business, or other organization) ha[s] been commonly known by the domain name, even if [Respondent has] acquired no trademark or service mark rights; or

(iii) [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 trademark or service mark at issue.” Policy, paragraph 4(c).

There is no evidence that Respondent was making a *bona fide*, noncommercial, or fair use of the disputed domain name before receiving notice of this dispute, or that Respondent has been commonly known by the disputed domain name. Rather, Complainants assert that Respondent is not licensed or otherwise authorized to use Complainants’ marks and is not affiliated with Complainants. Complainants also assert that parking a domain name does not give rise to rights or legitimate interests, that there is no *bona fide* offering of goods or services, and that nothing about the Whois record or the website at the disputed domain name or Respondent’s name as revealed by the Registrar indicates Respondent has been commonly known by the disputed domain name. Complainants also note that the disputed domain name is being offered for sale, and that the use of Complainants’ marks carries a risk of implied affiliation with Complainants.

These allegations make out a *prima facie* case of lack of rights or legitimate interests, which Respondent has not rebutted. See, e.g., [WIPO Overview 3.0](#) section 2.5.1 (“UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation.”); *Unipol Gruppo S.p.A., Unipolsai Assicurazioni S.p.A. v. is DOMAIN IS FOR SALE AT WWW.DAN.COM --- c/o Dynadot / DOMAIN ADMINISTRATOR, DOMAIN IS FOR SALE AT WWW.DAN.COM ---*, WIPO Case No. [D2021-3749](#) (“Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services. On the contrary, as Complainants demonstrated, the Domain Name resolved to a page, where it was being offered for sale. ... The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.”); *Facebook Inc. v. Nicolas Kokkalis*, WIPO Case No. [D2020-1201](#) (“It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.”); *Facebook, Inc. v. Registration Private, Domains By Proxy, LLC / Nikki Baumann*, WIPO Case No. [D2020-1103](#) (“The Complainant affirms it has never authorized nor licensed the Respondent to use the Complainant’s trademark, nor is the Respondent affiliated with the Complainant.

No evidence exists to show that (i) the Respondent's use of the disputed domain name relates to a '*bona fide* offering of goods or services'; (ii) the Respondent is commonly known by the domain name; or (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. Noting the nature of the disputed domain name, the uniqueness of the Complainant's name, and the fact that the disputed domain name does not have any active website, it negatively reflects on the Respondent's conduct. The Respondent has not responded to provide any evidence of legitimate use. Accordingly, based on the available record and Policy, paragraph 4(a)(ii), the Panel finds that the Complainant has made out a *prima facie* case, which has not been rebutted by the Respondent, and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.”).

Accordingly, the record supports a conclusion that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that paragraph 4(a)(ii) of the Policy is satisfied.

D. Registered and Used in Bad Faith

Complainants also bear the burden of establishing that the “domain name has been registered and is being used in bad faith”. Policy, paragraph 4(a)(iii). As set forth in the Policy, paragraph 4(b):

“[T]he following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

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

“Given that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to Complainant[s]' trademark[s] would also satisfy Complainant[s]' burden.” [WIPO Overview 3.0](#), section 3.1.

Complainants assert that the disputed domain name is being used in bad faith because Complainants' marks are well-known and therefore Respondent was aware of the marks at the time Respondent registered the disputed domain name, because Respondent is offering the disputed domain name for sale, because Respondent registered three other domain names using trademarks owned by Complainants and another entity, because Respondent used false Whois information, and because Respondent failed to respond to a message sent by Complainants' attorneys.

The parking page for the disputed domain name states “The domain name metaquest.vegas is for sale!” and contains an input form to “Make an offer”. The offer form will not accept an offer that is less than USD 100 – which likely is higher than Respondent's out-of-pocket costs to register a domain name with a parking page,

and most likely is higher than any documented out-of-pocket costs. This is evidence of bad faith. *Ocwen Financial Corporation v. David Goad / S Zoeller / Domain Administrator*, See *PrivacyGuardian.org*, WIPO Case No. [D2018-2578](#) (finding bad faith where “the Domain Name has been linked to a website offering the Domain Name for sale, or alternatively, indicating that the Domain Name is parked for free. Even if this content was automatically generated by the Registrar.”); [WIPO Overview 3.0](#), Section 3.1.1 (“Generally speaking, panels have found that the practice as such of registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith with the primary purpose of selling it to a trademark owner (or its competitor). ... If on the other hand circumstances indicate that the respondent’s intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant’s trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent’s likely knowledge of the complainant’s rights, (ii) the distinctiveness of the complainant’s mark, (iii) a pattern of abusive registrations by the respondent, ... (vi) threats to “sell to the highest bidder” or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, (x) a respondent’s past conduct or business dealings, or (xi) a respondent’s registration of additional domain names corresponding to the complainant’s mark subsequent to being put on notice of its potentially abusive activity.”).

Respondent’s registration of several other domain names that use the trademarks of Complainants and of another entity also is evidence of bad faith pursuant to paragraph 4(b)(ii) of the Policy.

In addition, on the facts of this case, the use of a parking page with the disputed domain name also is evidence of bad faith through passive holding. As noted in section 3.3 of the [WIPO Overview 3.0](#), “[f]rom the inception of the UDRP, panelists 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. ... While 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, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.” These factors also support a finding of bad faith.

Panels also have found the registration and use of well-known trademarks, with no apparent *bona fide* use, and the failure to respond to a cease and desist letter or contact through the registrar’s online form, relevant to a finding of bad faith. *Facebook Inc. v. Yumei Luo*, WIPO Case No. [D2020-2306](#) (“the Respondent’s failure to reply to the Complainant’s message sent via the registrar’s online form prior to the filing of this Complaint is also indicative of the Respondent’s bad faith”); *Facebook Inc. v. Sleek Names, SL Names, VSAUDHA*, WIPO Case No. [D2015-0547](#) (“The Panel concludes that due to the worldwide reputation of the FACEBOOK trademark and its associated services, the Respondent must have been aware of the Complainant’s trademark when it registered and used the disputed domain names. The Respondent clearly intended to attract users to its websites through the unauthorized use of the famous FACEBOOK trademarks as the primary and/or dominant element of the disputed domain names. The Respondent is using many of the disputed domain names in association with websites which offer the disputed domain names for sale, or transfer, for purposes of monetary gain. Others of the disputed domain names are essentially passively held, which, as has been well established, does not prevent a finding of bad faith use. In the absence of any evidence to the contrary, the Panel finds that the disputed domain names were registered and used in bad faith.”); *Facebook, Inc. v. Domain Administrator, PrivacyGuardian.org / Hernando Sierra*, WIPO Case No. [D2018-1145](#) (“The longstanding and public use of the FACEBOOK and FB Marks would make it disingenuous for the Respondent to claim that it was unaware that the registration of the Disputed Domain Names would violate the Complainant’s rights. ... Thus, the timing of the Respondent’s registration and use of the Disputed Domain Names indicates that they were in bad faith. ... Moreover, the registration of a domain name that is confusingly similar to a well-known registered trademark by an entity that has no relationship to that mark may be sufficient evidence of bad faith registration and use. ... Finally, the fact that

the Respondent did not respond to the Complainant's cease and desist letter is additional evidence of bad faith.").

Accordingly, the Panel finds that the record supports a conclusion that the disputed domain name has been registered and is being used in bad faith, and that paragraph 4(a)(iii) of the Policy is satisfied.

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.vegas>, be transferred to Complainant Meta Platforms, Inc., as requested in the Complaint.

/Bradley A. Slutsky/

Bradley A. Slutsky

Sole Panelist

Date: March 6, 2023