

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc., Meta Platforms Technologies, LLC v. tian shiyi (aka shiyi tian)

Case No. D2022-5019

### **1. The Parties**

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

The Respondent is tian shiyi (aka shiyi tian), China.

### **2. The Disputed Domain Names and Registrars**

The disputed domain names <metaquest.capetown>, <metaquest.durban>, <metaquest.gent>, and <metaquest.joburg> are registered with NETIM SARL (the “First Registrar”); and the disputed domain names <metaquest.vodka> and <metaquest.yokohama> are registered with Porkbun LLC (the “Second Registrar”).

NETIM SARL and Porkbun LLC are collectively referred to hereinafter as the “Registrars”.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2022. On December 29, 2022, the Center transmitted by email to the First Registrar a request for registrar verification in connection with the disputed domain names. On December 30, 2022, the First 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 January 3, 2023 providing the registrant and contact information disclosed by the First Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on January 11, 2023, in which the Complainants requested for withdrawal of the domain name <metaquest.career> and addition of the disputed domain names <metaquest.gent>, <metaquest.vodka>, and <metaquest.yokohama> into the proceeding. On January 12, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 12 and January 13, 2023, the Registrars transmitted by email to the Center the verification responses confirming that the Respondent is listed as the registrant and providing the contact details.

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 January 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 6, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on February 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, Meta Platforms, Inc. (formally known as "Facebook, Inc.") is a United States 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"), was acquired by the Complainant Meta Platforms, Inc. in 2014, and is the intellectual property rights holder for various technologies owned by the Complainant Meta Platforms, Inc. and a distributor of virtual reality ("VR") software and apparatus, including the "Meta Quest" VR headsets. Since the Complainants are part of the same group, they will be collectively referred to as the "Complainant" hereinafter.

The Complainant's change of name was announced on October 28, 2021 and this was publicised worldwide, including in China where the Respondent apparently resides. The Complainant has made substantial investment to develop a strong presence online by being active on various social-media platforms.

The Complainant's products and services are available in many countries around the world, including in the United States and Europe.

The Complainant holds trademark registrations for META and QUEST worldwide, such as the following:

- the United States Trademark registration no. 5548121 for the word META, filed on December 17, 2015 and registered on August 28, 2018, assigned to the Complainant on October 26, 2021, and covering services in Nice classes 35 and 42;
- the European Union Trademark registration no. 017961685 for the word QUEST, filed on September 26, 2018 and registered on June 16, 2020, and covering goods and services in Nice classes 9, 28, 35, 38, 41, 42, and 45; and
- the United States Trademark registration no. 6279215 for the word QUEST, filed on September 26, 2018 and registered on February 23, 2021, and covering goods and services in Nice classes 9, 28, 35, and 42.

The Complainant holds numerous domain names incorporating the META and QUEST trademarks, such as <meta.com>, <meta.day>, <meta.new>, or <questfrommeta.com>.

According to the information provided by the Registrars, the disputed domain names were registered as follows:

- <metaquest.capetown>, <metaquest.durban>, <metaquest.gent>, and <metaquest.joburg> were registered on February 5, 2022; and
- <metaquest.vodka> and <metaquest.yokohama> were registered on February 2, 2022.

At the time of filing the Complaint, according to evidence provided in Annex 5 to the Complaint, all the disputed domain names resolved or redirected to Dan.com parking site and were offered for public sale, each for the amount of 47,500 United States dollars.

According to evidence provided in Annex 15 to the Complaint, the Respondent has registered several domain names including third parties' widely known trademarks.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that the disputed domain names are confusingly similar to its widely publicized trademarks, the Respondent has no rights or legitimate interests in the disputed domain names, and the Respondent registered and is using the disputed domain names in bad faith. The Complainant requests the transfer of the disputed domain names to it.

### **B. Respondent**

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

## **6. Discussion and Findings**

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant holds rights in the META and QUEST trademarks.

All the disputed domain names incorporate both of the Complainant's trademarks in their entirety and therefore this Panel finds the disputed domain names are confusingly similar to the trademarks META and QUEST.

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (e.g., ".com", ".site", ".capetown", ".gent", ".vodka") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Given the above, the Panel finds that the disputed domain names are confusingly similar to the trademarks META and QUEST, pursuant to the Policy, paragraph 4(a)(i).

## **B. Rights or Legitimate Interests**

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the marks META or QUEST, that the Respondent is not commonly known by the disputed domain names, and that the Respondent has not used the disputed domain names in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain names. The Respondent has not replied to the Complainant’s contentions and has not come forward with relevant evidence to rebut the Complainant’s *prima facie* case.

The disputed domain names incorporate the Complainant’s trademarks in their entirety, and are offered for public sale on a third party website and these facts, together with the other circumstances in this case, do not amount to a *bona fide* or legitimate use.

Further, prior UDRP panels have held 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. See section 2.5.1 of the [WIPO Overview 3.0](#).

For these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain names, pursuant to the Policy, paragraph 4(a)(ii).

## **C. Registered and Used in Bad Faith**

The Complainant holds trademark rights in META and QUEST since at least 2021. This Panel accepts the Complainant’s evidence that the META and QUEST trademarks were significantly promoted worldwide starting October 2021 and gained reputation.

The disputed domain names were registered on the same day or within three days of each other and very shortly after the Complainant’s public announcement regarding its rebranding, incorporate the Complainant’s combination of the META and QUEST marks and reflect the name of the Complainant’s “Meta Quest” VR headsets.

For the above, the Panel finds that the disputed domain names were registered in bad faith with the Respondent’s knowledge of the Complainant, its business, trademarks, and products.

At the time of filing the Complaint, the disputed domain names were not connected to active websites.

From the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or “coming soon” or other similar inactive page) would not prevent a finding of bad faith under the doctrine of passive holding. The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith. Examples of what may be relevant circumstances found to be indicative of bad faith include the degree of distinctiveness or reputation of the complainant’s mark and the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use. See section 3.3 of the [WIPO Overview 3.0](#).

As previously mentioned, all the disputed domain names incorporate the Complainant's trademarks META and QUEST in their entirety, the Respondent failed to participate in this proceeding and it is implausible to conceive any good faith use to which the disputed domain names may be put.

Also, the disputed domain names were offered for public sale on a third party's website for an amount likely exceeding the out-of-pocket expenses incurred with their registrations. Consequently, the Panel deems applicable the circumstances listed under paragraph 4(b)(i) of the Policy providing that the Respondent has registered the disputed domain names primarily for the purpose of selling or otherwise transferring the domain name registrations to the Complainant or its competitors for an amount likely in excess of the documented out-of-pockets costs.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use where the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. The Panel finds that registering for at least six disputed domain names reflecting the Complainant's trademarks can be considered a pattern of abusive conduct and registration of the disputed domain names in bad faith. See section 3.1.2 of the [WIPO Overview 3.0](#).

Furthermore, according to Annex 15 to the Complaint, the Respondent seems to be the registrant of other domain names comprising third parties' widely known trademarks.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain names in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## 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 <metaquest.capetown>, <metaquest.durban>, <metaquest.gent>, <metaquest.joburg>, <metaquest.vodka>, and <metaquest.yokohama> be transferred to the Complainant Meta Platforms, Inc.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: February 20, 2023