

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Justin Robinson  
Case No. D2023-0201

### **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 Justin Robinson, United States.

### **2. The Domain Names and Registrar**

The disputed domain names <meta-oculus-quest.com>, <meta-questvr.com>, <metaquest-vr.com>, and <metavrquest.com> (the “Disputed Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2023. On January 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On January 18, 2023, the 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, 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 January 24, 2023.

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 February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. The Respondent sent three emails to the Center, dated January 24, 2023 and February 3, 2023, respectively, requesting settlement. The Complainants

refused to settle the case and preferred to go forward with the proceeding. Accordingly, the Center notified the Commencement of Panel Appointment Process on February 22, 2023.

The Center appointed Lynda M. Braun as the sole panelist in this matter on February 28, 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., is a United States social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp. The Complainant, formerly known as Facebook Inc., announced its change of name to Meta Platforms, Inc. on October 28, 2021. Meta's focus is to bring the metaverse to life, to help people connect, find communities and grow businesses, allow users to share immersive experiences with other people even when they cannot be together, and do things that they could not do in the physical world.

Meta Platforms Technologies, LLC is the intellectual property rights holder for various technologies owned by Meta Platforms, Inc. Meta Platforms Technologies, LLC 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. Acquired by Meta in March 2014, Oculus rapidly acquired and developed considerable goodwill and renown worldwide, in connection with its virtual reality ("VR") software and apparatus. Meta currently markets and offers its VR products (including the "Meta Quest" headsets) via its official website at "[www.meta.com/gb/en/quest](http://www.meta.com/gb/en/quest)".

The Complainants own numerous trademark registrations for META, OCULUS, OCULUS QUEST and QUEST in the United States and numerous jurisdictions worldwide, including, but not limited to, the following: META, United States Trademark Registration No. 5,548,121, registered on August 28, 2018; in International Classes 35 and 42; OCULUS, United States Trademark Registration No. 4,891,157, registered on January 26, 2016, in International Class 28; OCULUS QUEST, European Union Trademark Registration No. 017961689, registered on May 22, 2020, in International Classes 9, 25, 28, 35, 38, 41, 42 and 45; and QUEST, United States Trademark Registration No. 6,279,215, registered on February 23, 2021, in International Classes 9, 28, 35 and 42.

The aforementioned trademark registrations will collectively be referred to as the "META, OCULUS, and QUEST Marks".

The Disputed Domain Names were all registered on October 29, 2021, and redirected to Afternic.com web pages, each of which offered the respective Disputed Domain Names for sale.

On November 15, 2022, the Complainants attempted to contact the Respondent via the Registrar's contact form, but the Respondent did not reply to the Complainants' notice.

#### **5. Parties' Contentions**

##### **A. Complainants**

The following are the Complainants' contentions:

- the Disputed Domain Names are confusingly similar to the Complainants' META, OCULUS and QUEST Marks;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names;

- the Disputed Domain Names were registered and are being used in bad faith; and
- the Complainants seek the transfer of the Disputed Domain Names from the Respondent to the Complainants in accordance with paragraph 4(i) of the Policy.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions, although the Respondent wrote emails to the Complainants via the Center requesting settlement of the proceeding. The Complainants responded that they were not interested in exploring settlement.

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Consolidation of the Complainants**

The Complainants submitted a request for consolidation in this proceeding in their Complaint. Pursuant to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11, the consolidation of multiple complainants filing a joint complaint against one or more respondents is subject to the discretion of the appointed panel.

In assessing whether a complaint filed by multiple complainants may be brought against one or more respondents, the appointed panel should consider 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.

Keeping this in mind, the Panel notes that the Complainants in the present administrative proceeding are affiliated since the Complainant Meta Platforms Technologies, LLC is a wholly-owned subsidiary of the Complainant Meta Platforms, Inc. As such, the two entities have a sufficient common legal interest in the META, OCULUS and QUEST trademarks that are incorporated in the Disputed Domain Names. The Panel therefore submits that consolidation of the Complainants would be appropriate in the present proceeding and would not have any unfair prejudicial effect on the Respondent. Moreover, the Complainants have been the target of common conduct by the Respondent, who has engaged in bad faith registration and use of the Disputed Domain Names.

Therefore, the Panel considers that it is fair and equitable under the circumstances of the case to permit consolidation as the Complainants are not only affiliated companies as parent and subsidiary, but also have common interests.

Consequently, the Panel allows the Complainants to proceed with their Complaint.

### **6.2 Substantive Issues**

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

- (i) the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- (iii) the Disputed Domain Names were registered and are 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 Names are confusingly similar to the META, OCULUS and QUEST Marks as explained below.

It is uncontroverted that the Complainants have established rights in the META, OCULUS and QUEST Marks based on their several years of use as well as their registered trademarks for the META, OCULUS and QUEST Marks in the United States and 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 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 Complainants satisfied the threshold requirement of having rights in the META, OCULUS and QUEST Marks.

The <meta-oculus-quest.com> Disputed Domain Name consists of the META Mark followed by the OCULUS and QUEST Marks joined by a hyphen, and then followed by the generic Top-Level Domain (“gTLD”) “.com”; the <meta-questvr.com> Disputed Domain Name consists of the META Mark connected to the QUEST Mark and the term “vr”, and then followed by the gTLD “.com”; the Disputed Domain Name <metaquest-vr.com> consists of the META Mark followed by the QUEST Mark, joined by a hyphen to the term “vr”, and then followed by the gTLD “.com”; and the Disputed Domain Name <metavrquest.com> consists of the META Mark followed by the term “vr” and the QUEST Mark, and then followed by the gTLD “.com”.

Where the trademark is recognizable in the Disputed Domain Name, as the META, OCULUS and QUEST Marks are here, the addition of a term, such as “vr” does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 (“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”). In fact, the presence of the META and QUEST Marks in the Disputed Domain Names in their entirety, as well as the presence of the OCULUS and OCULUS QUEST Marks in relation to the Disputed Domain Name <meta-oculus-quest.com>, is sufficient to establish confusing similarity between the Disputed Domain Names and the Complainants’ trademarks.

Moreover, it is well established that a disputed domain name that wholly incorporates a trademark may be confusingly similar to that trademark for purposes of the Policy despite the addition of a hyphen. The presence or absence of punctuation marks such as hyphens cannot on their own avoid a finding of confusing similarity. See *Six Continents Hotels, Inc. v. Helen Siew*, WIPO Case No. [D2004-0656](#).

Finally, the addition of a gTLD such as “.com” in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a 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 Panel concludes that the Disputed Domain Names are confusingly similar to the Complainants’ META, OCULUS and QUEST Marks.

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

## 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 Names. The Complainants have not authorized, licensed, or otherwise permitted the Respondent to use the Complainants' META, OCULUS and QUEST Marks. There is also no evidence that the Respondent is commonly known by the Disputed Domain Names or by any similar name, nor has the Respondent made any demonstrable preparations to use the Disputed Domain Names in connection with a *bona fide* offering of goods or services.

Further, by failing to use the Disputed Domain Names in connection with an active website and redirecting the Disputed Domain Names to Afternic.com web pages, the Respondent has not used the Disputed Domain Names in connection with a *bona fide* offering of goods or services and, therefore, cannot establish rights or legitimate interests pursuant to paragraph 4(c)(i) of the Policy.

Since the Disputed Domain Names redirect to Afternic.com web pages, which offer for sale each of the respective Disputed Domain Names, such use demonstrates the Respondent's intent to derive commercial gain from the resale of the Disputed Domain Names, which cannot constitute fair use. Thus, the Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Names. Such use cannot conceivably constitute a *bona fide* offering of a product or service within the meaning of paragraph 4(c)(i) of the Policy.

In sum, the Panel finds that the Complainants have established an unrebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names.

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

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

The Panel finds that based on the record, the Complainants have demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy.

First, based on the circumstances here, the Panel concludes that the Respondent's registration and use of the Disputed Domain Names had been done for the specific purpose of trading on the name and reputation of the Complainants and their META, OCULUS and QUEST Marks. 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").

Second, with respect to the use of the Disputed Domain Names, the evidence submitted shows that the Disputed Domain Names do not resolve to active websites of the Respondent, but rather to landing pages with each Disputed Domain Name for sale. In the circumstances of the present case, the Panel finds that the Respondent registered and is using the Disputed Domain Names in bad faith. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). "The lack of use [of a domain name] by itself does not indicate anything. Nevertheless, the lack of use of a domain name that is not backed up by any trademark and that coincides with a known, well-known or renowned trademark owned by someone else, does not indicate other than bad faith in the sense of paragraph 4(b) of the Policy." See *El Bebe Productions Ltd v. Rachid Zouad*, WIPO Case No. [D2018-0469](#) (citing *Itaú Unibanco Holding S.A. v. Valdey Dos Santos Decorações ME*, WIPO Case No. [D2009-1335](#)).

Third, the Panel finds it likely that the Respondent had actual knowledge of the Complainants' META OCULUS and QUEST Marks and targeted the Complainants when it registered the Disputed Domain Names, demonstrating the Respondent's bad faith. It can be inferred that the Respondent had actual knowledge of the Complainants and the META, OCULUS and QUEST Marks when it registered the confusingly similar Disputed Domain Names. UDRP panels have found that the registration of a 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. Moreover, the Complainants' widely-publicized

rebranding from “Oculus Quest” to “Meta Quest” was announced on October 28, 2021. The Respondent registered each of the Disputed Domain Names the day after this announcement, on October 29, 2021. When combined, the trademarks META and QUEST (and OCULUS and QUEST or OCULUS QUEST in the case of the Disputed Domain Name <meta-oculus-quest.com>), form a distinctive combination that is readily associated with the Complainants. As such, the Panel concludes that the Respondent could not credibly argue that it did not have knowledge of the Complainants’ trademarks when registering the Disputed Domain Names.

Finally, the Respondent’s failure to reply to the Complainants’ notice dated November 15, 2022 and sent via the Registrar’s contact form may be deemed an additional indicator of the Respondent’s bad faith in this proceeding.

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

## **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 <meta-oculus-quest.com>, <meta-questvr.com>, <metaquest-vr.com>, and <metavrquest.com> be transferred to the Complainant, Meta Platforms, Inc.

*/Lynda M. Braun/*

**Lynda M. Braun**

Sole Panelist

Date: March 4, 2023