

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Black Tower Systems, Kyle Platt

Case No. D2023-0422

### **1. The Parties**

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.

Respondent is Black Tower Systems, Kyle Platt, United States.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2023. On January 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2023, 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 (See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to Complainants on February 13, 2023, 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 February 16, 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 Respondent of the Complaint, and the proceedings commenced on February 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2023. Respondent did not submit a response to Complainants’ contentions. Accordingly, the Center notified Respondent’s default on March 21, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on March 27, 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**

Complainants are related entities (together with their corporate affiliates, “Complainant”), formerly known as Facebook, a global provider of online social networking services. Launched in 2004, Facebook now has over 2 billion active users. Since its official change of name, which was recorded and publicly announced on October 28, 2021, Complainant has been publicly referred to under its new name and mark META.

Complainant owns trademark registrations for numerous marks, including META and QUEST, which Complainant uses in connection with its online social networking and related services. Registrations include, among others, United States Registration No. 5548121 for META (Registered August 28, 2018 and assigned to Complainant on October 26, 2021) and United States Registration No. 6279215 for QUEST (registered February 23, 2021).

The disputed domain name was registered on October 29, 2021. The disputed domain name is not linked to an active website. Respondent nevertheless has no affiliation with Complainant, nor any license to use its marks.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant’s trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Complainant contends that its globally renown services, offered since 2004 under the FACEBOOK mark, are commonly referred to as FB, including by global media enterprises. Complainant further alleges that since it issued a public announcement on October 28, 2021, Complainant received immediate global media attention regarding its corporate change of name to META. Complainant further contends that it owns and has owned rights to the marks META and QUEST since prior to the registration of the disputed domain name by Respondent. Complainant contends that Respondent has incorporated Complainant’s META and QUEST marks into the disputed domain name, with the addition only of the non-source-identifying top-level-domain “monster.”

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name, and rather has registered and is using it in bad faith.

Complainant submits that the disputed domain name carries a significant risk of implied affiliation with Complainant and that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding.

##### **B. Respondent**

Respondent did not reply to Complainant’s contentions.

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates in full Complainant's registered META and QUEST marks.

The addition of the generic Top-Level-Domain ("gTLD") "monster" is viewed as a standard registration requirement and is generally disregarded for the purpose of the assessment of confusing similarity.

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph (4)(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no "rights or legitimate interest", as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services;" (ii) demonstration that respondent has been "commonly known by the domain name;" or (iii) "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".

No evidence has been presented to the Panel that might support a claim of Respondent's rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence for a *prima facie* case that Respondent lacks "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy, which Respondent has not rebutted.

### C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's decision, the disputed domain name is not linked to an active website. It is nevertheless well established that having a passive website does not necessarily shield a respondent from a finding of bad faith. See Section 3.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions ("[WIPO Overview 3.0](#)"), which notes that the "non-use of a domain name" does not necessarily negate a finding of bad faith.

Rather, a panel must examine "the totality of the circumstances", including, for example, whether a complainant has a well-known trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent here used a privacy service and provided an address that was undeliverable by DHL.

Complainant has demonstrated a high level of consumer exposure to its marks in jurisdictions around the world. Respondent registered the disputed domain name on October 29, 2021, within a day of Complainant's announcement of its change of name, which received significant media attention. See also *Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. caocan*, WIPO Case No. [D2022-3014](#); and *Meta Platforms, Inc. v. Registration Private, Domains By Proxy, LLC. / RAMONCITO ULEP, TIRA GROUP*, WIPO Case No. [D2022-2659](#).

Therefore, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph (4)(a)(iii) 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 <metaquest.monster> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Date: April 10, 2023