

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Asher Ali Mirza, Digital Melons
Case No. D2023-0444

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 Asher Ali Mirza, Digital Melons, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <facebookverification.com> is 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 31, 2023. On February 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 2, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 8, 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 February 10, 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 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 7, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on March 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

According to information in the Complaint, the Complainant operates the Facebook social networking website and mobile application which enables its users to stay connected with friends and family, to discover what's going on in the world, and to share and express what matters to them. As of June 30, 2022, Facebook had approximately 2.93 billion monthly active users and 1.97 billion daily active users on average worldwide. In 2022, the FACEBOOK brand ranked 17 in Interbrand's Best Global Brands report.

The Complainant owns many trademark registrations for FACEBOOK, including the United States trademark registration for FACEBOOK, registered under No. 3,122,052 as of July 25, 2006.

In addition to the <facebook.com> domain name, the Complainant owns and operates numerous other domain names consisting of the FACEBOOK trademark, including <facebook.org> and <facebook.net>.

The disputed domain name was registered on August 15, 2022, and it does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name incorporates the entirety of the Complainant's FACEBOOK trademark along with the word "verification", which does not remove the confusing similarity between the disputed domain name and the Complainant's trademark, which remains clearly recognizable in the disputed domain name.

With respect to the second element, the Complainant argues that the Respondent is not a licensee of the Complainant and that the Respondent is not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its FACEBOOK trademark, in a domain name or otherwise. The disputed domain name does not resolve to an active website. The nonuse of the disputed domain name does not qualify as use of the disputed domain name in connection with a *bona fide* offering of goods or services. Further, neither the registrant's name nor its organization bears any resemblance to the disputed domain name, therefore the Respondent cannot claim that it is known by the disputed domain name. The Complainant further argues that the use of the disputed domain name by the Respondent cannot qualify as fair use as it falsely suggests affiliation with the trademark owner, because the term "verification" may be read as a reference to the verification tool of the Complainant's Facebook platform.

As regards the third element, the Complainant argues that its FACEBOOK trademark is highly distinctive and famous throughout the world. It has been continuously and extensively used since 2004, in connection with the Complainant's social network, having rapidly acquired considerable goodwill and reputation worldwide. Moreover, the disputed domain name comprises the Complainant's FACEBOOK trademark in its entirety, followed by the descriptive term "verification" which may be read as a reference to the Complainant's verification tool on its Facebook platform, which is a well-known and highly sought-after feature introduced by the Complainant to its Facebook platform in 2013 to confirm the authenticity of the profile or page of a public figure or brand. The Complainant submits that the Respondent could not reasonably argue that it did not have knowledge of the Complainant and its rights in the FACEBOOK trademark at the time of registration of the disputed domain name. The Complainant submits that the Respondent registered the disputed domain name, with no authorization to make use of the Complainant's trademark, knowing that the disputed domain name would create a risk of implied affiliation with the Complainant, in bad faith. Further, non-use of

the domain name does not prevent a finding of bad faith under the doctrine of passive holding in the circumstances of the case given the strong reputation of the Complainant's trademark, the fact that the Respondent did not reply to the Complainant's pre-Complaint attempt to contact him, the use of a privacy service by the Respondent as well as the composition of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainants as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence of its rights in the FACEBOOK trademark, which is reproduced in its entirety in the disputed domain name. The addition of the term "verification" does not prevent a finding of confusing similarity with the Complainant's trademarks. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-level-Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the FACEBOOK trademarks and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has failed to bring evidence to the contrary.

Moreover, the nature of the disputed domain name, comprising the Complainants' trademark in its entirety, adding the term "verification" that refers to the Complainant's platform and services cannot be considered fair as it falsely suggests an affiliation with the Complainants that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

The Complainant's registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain name. The Respondent has not denied knowledge of the Complainant. Under these circumstances, and also given the Complainant's trademarks are well-known and the confusing similarity between the disputed domain name and the Complainant's trademarks, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks, and with intention to target those trademarks.

As regards the use, the disputed domain name is passively held.

Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "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."

The Panel finds that passive holding of the disputed domain name does not, in the circumstances of this case, prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademarks of the Complainant are well-known and widely used in commerce. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. The Respondent also engaged the use of a privacy services to mask its contact details on the publicly-available WhoIs.

Based on the evidence and circumstances of this case, the Panel concludes that the requirement of 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 <facebookverification.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: March 24, 2023