

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Jacobus Strauss

Case No. D2023-1271

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 Jacobus Strauss, Malta.

2. The Domain Name and Registrar

The disputed domain name <facebook69.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 March 23, 2023. On March 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 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 March 27, 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 March 30, 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 March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Respondent did not submit any formal response. The Center received two informal replies from the Respondent on April 12 and 21, 2023. Accordingly, the Center notified the Commencement of Panel Appointment Process on April 21, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on April 26, 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 is Meta Platforms, Inc. (formerly Facebook, Inc.), a social technology company which operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus) and WhatsApp. Founded in 2004, the Complainant's Facebook platform is amongst the leading providers of online social-media and social-networking services.

The Complainant owns several registrations for the trademark FACEBOOK, *inter alia*, the United States Trademark Registration No. 3041791, registered on January 10, 2006, and the European Union Trademark No. 005585518, registered on May 25, 2011.

The Complainant also holds several domain names, including the domain name <facebook.com>.

The disputed domain name was registered on September 26, 2022.

The disputed domain name resolves to the login page of what purports to be a social-media website.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the FACEBOOK trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the number "69" is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name, is not a licensee of the Complainant, nor has the Respondent been authorized by the Complainant to make any use of its FACEBOOK trademark, in a domain name or otherwise. The Respondent is not using the disputed domain name in good faith nor making a legitimate noncommercial use of the disputed domain name because it is clear from the Respondent's unauthorized use of the Complainant's FACEBOOK trademark and the similarities between the Complainant's Facebook platform and the Respondent's website that the Respondent has sought to offer a social-media-style website, while taking advantage of a perceived connection with the Complainant and the goodwill and reputation attached to the Complainant's trademark.

The disputed domain name was registered in bad faith because it is clear that the Respondent had actual knowledge of the Complainant and its famous trademark FACEBOOK and registered the disputed domain name with the aim of creating a misleading impression of association with the Complainant.

The Respondent is using the disputed domain name, which contains the Complainant's FACEBOOK trademark, to purport to offer social-media services that seek to trade off the goodwill and reputation associated with the Complainant's Facebook platform. Thereby, the disputed domain name is being used in bad faith, because the Respondent has sought to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

B. Respondent

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

On April 12, 2023, the Center and the Complainant received an informal reply stating:

"Good day if they pay me usd 1000 i will settle"

On April 21, 2023, the Center and the Complainant received a second informal reply stating in particular:

"I don't know why I need to respond to this email, I gave facebook.com the option to buy the domain. My price now goes up to Euro 50000. They can just buy it if they want it doesnt do anything for me except point it to The Matrix Social Media."

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the 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. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its FACEBOOK trademark.

The Panel notes that the disputed domain name incorporates the FACEBOOK trademark in its entirety. The addition of the number "69" does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The addition of the generic Top-Level Domain ".com" in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark FACEBOOK.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states that the Respondent is not commonly known by the disputed domain name, is not a licensee of the Complainant and that the Respondent has not been authorized by the Complainant to make any use of its FACEBOOK trademark, in a domain name or otherwise. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the

Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its FACEBOOK trademark is famous.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's famous trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name resolves to the login page of what purports to be a social-media website with certain similarities to the Complainant's Facebook platform. For example, the Respondent's website features the trademark FACEBOOK in combination with the number "69", a similar "f" favicon and a similar blue/white color scheme. The panel therefore finds that the Respondent is using the disputed domain name to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy.

Moreover, in the informal reply of April 21, 2023, Euro 50,000 were requested for the transfer of the disputed domain name to the Complainant, which indicates that the Respondent had registered the disputed domain name primarily for the purpose of selling it to the Complainant for consideration well in excess of the out-of-pocket costs directly related to the disputed domain name in the sense of paragraph 4(b)(i) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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, <facebook69.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: May 4, 2023