

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. 陈丽婷 (Chen Li Ting)

Case No. D2023-1740

1. The Parties

Complainant is Meta Platforms, Inc., United States of America (“U.S.”), represented by Hogan Lovells (Paris) LLP, France.

Respondent is 陈丽婷 (Chen Li Ting), China.

2. The Domain Names and Registrar

The disputed domain names <fb-svip.com>, <fb-vip.com>, and <meta-fbvip.com> are registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 26, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on April 26, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on April 28, 2023.

On April 26, 2023, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 26, 2023, Complainant confirmed its request that English be the language of the proceeding. Respondent did not comment on the language of the proceeding.

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 May 9, 2023. In accordance with the Rules, paragraph 5, the due date

for Response was May 29, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 30, 2023.

The Center appointed Yijun Tian as the sole panelist in this matter on June 14, 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

A. Complainant

Complainant, Meta Platforms, Inc., is a company incorporated in the U.S. It operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus) and WhatsApp. Complainant's focus is to bring the metaverse to life and to help people connect, find communities and grow businesses. Founded in 2004, Complainant, formerly known as "Facebook, Inc.", is the leading provider of online social networking services. Facebook is currently ranked as the 4th app by downloads for iOS phones worldwide. Currently inaccessible in mainland China where Respondent is based, Complainant's services are far from unknown to the Chinese public. Numerous Chinese press articles (notably including China's state media People's Daily) have reported on the international popularity of Complainant's services. Facebook has acquired a considerable reputation and goodwill throughout the world, including in China. Furthermore, the term FB commonly refers to Facebook and has been used by international publications, such as The New York Times, "Generation FB" dated June 23, 2011, and The Guardian, "Who are the most social publishers on the web?", (referencing "FB Likes, FB Shares, FB Comments") dated October 3, 2013 (Annex 9 to the Complaint).

Complainant is the owner of numerous FACEBOOK, FB and META trademarks worldwide, including the U.S. Trademark FB registered on December 23, 2014 (the U.S. Trademark registration number 4659777), the European Union ("EU") Trade Mark FB registered on August 23, 2011 (the EU Trade Mark registration number 008981383), the U.S. Trademark META registered on August 28, 2018 (the U.S. Trademark registration number 5548121), the Chinese Trademark FACEBOOK registered on September 21, 2009 (the Chinese Trademark registration number 5251162), and the International Trademark FACEBOOK registered on July 16, 2010 (the International registration number 1075807).

B. Respondent

Respondent is 陈丽婷 (Chen Li Ting), China. The disputed domain names <fb-vip.com> and <fb-svip.com> were registered by Respondent on July 20, 2021. The disputed domain name <meta-fbvip.com> was registered by Respondent on May 28, 2022.

The disputed domain name <meta-fbvip.com> is resolved to a website in Chinese, which purports to offer Facebook and other social media (e.g., Instagram, Twitter and TikTok) accounts for sale for use in various contexts. The disputed domain name <fb-svip.com> redirects internet users to the above website (the website resolved by the disputed domain name <meta-fbvip.com>). The disputed domain name <fb-vip.com> is resolved to a website in Chinese, which prominently provides the link of "http://meta-fbvip.com/" at the top of the homepage and leads Internet users to visit the website resolved by two other disputed domain names (as mentioned above) through pop-up notifications or related links displayed on the top of the homepage.

5. Parties' Contentions

A. Complainant

Complainant contends that all the disputed domain names are confusingly similar to Complainant's FACEBOOK, FB, or META trademarks. All the disputed domain names <fb-svip.com>, <fb-vip.com>, and

<meta-fbvip.com> incorporate Complainant's FB and/or META mark(s) in its entirety with the addition of the acronym "vip" or "svip" (which may refer to "Super VIP" and a hyphen. The addition of the terms is not sufficient to eliminate the confusing similarity. The generic Top-Level Domain ("gTLD") ".com" is irrelevant when assessing whether a domain name is identical or confusingly similar to a mark as it is a functional element.

Complainant contends that Respondents have no rights or legitimate interests in the disputed domain names.

Complainant contends that the disputed domain names were registered and are being used in bad faith.

Complainant requests that the disputed domain names be transferred to it.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreements for the disputed domain names <fb-svip.com>, <fb-vip.com>, and <meta-fbvip.com> is Chinese.

Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement. From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant initially filed its Complaint in English, and has requested that English be the language of the proceeding for the following main reasons:

- (a) The disputed domain names consist of Latin letters rather than Chinese characters and contain the English terms "vip", which indicates Respondent's ability to understand the English language; and
- (b) It would be disproportionate to require Complainant, an international business which operates primarily in English, to translate and submit the present Complaint in Chinese as this would result in additional expenses and unnecessary delay for Complainant;

Respondent did not make any submission with respect to the language of the proceeding and did not object to the use of English as the language of the proceeding.

Paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding. In other words, it is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes (*Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#); *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#)). The language finally decided by the panel for the proceeding should not be prejudicial to either one of the parties in its abilities to articulate the arguments for the case (*Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)). Section 4.5.1 of the [WIPO Overview 3.0](#) further states:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement." (See also *L'Oreal S.A. v. MUNHYUNJA*, WIPO Case No. [D2003-0585](#)).

On the record, Respondent is located in China and is thus presumably not a native English speaker. However, considering the following, the Panel has decided that English should be the language of the proceeding: (a) all the disputed domain names include Latin characters and English words, rather than Chinese scripts; (b) the gTLD of the disputed domain name is ".com", so the disputed domain name seems to be prepared for users worldwide, particularly English speaking countries; (c) the Center has notified Respondent of the proceeding in both Chinese and English but Respondent did not comment on the language of the proceeding; and (d) the Center informed the Parties, in English and Chinese, that it would accept a Response in either English or Chinese, but none was filed.

Accordingly, the Panel finds the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that English shall be the language of the proceeding, and the decision will be rendered in English.

6.2. Substantive Issues

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that the disputed domain names should be cancelled or transferred:

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

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the FACEBOOK, FB, and META marks acquired through registration and use. The FB marks have been registered in the U.S. since 2014, and registered in the EU since 2021. The META marks have been registered in the U.S. since 2021.

In relation to the disputed domain names <fb-svip.com>, <fb-vip.com>, and <meta-fbvip.com>, the Panel finds that they comprise the FB and/or META mark(s) in their entirety. They only differ from Complainant's trademark by the term "vip", "svip", a hyphen, and the gTLD ".com". This does not compromise the recognizability of Complainant's mark within the disputed domain names, nor prevent a finding of confusing similarity between Complainant's registered trademark and the disputed domain names (*Decathlon v. Zheng Jianmeng*, WIPO Case No. [D2019-0234](#)).

Further, in relation to the gTLD suffix, [WIPO Overview 3.0](#) further states: “The applicable Top-Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” ([WIPO Overview 3.0](#), section 1.11.1.)

The Panel, therefore, holds that the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that Respondent has rights or legitimate interests in the disputed domain names:

- (i) before any notice to Respondent of the dispute, the use by Respondent of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent has been commonly known by the disputed domain names, even if Respondent has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant’s trademarks.

The overall burden of proof on this element rests with the complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to the respondent to rebut complainant’s contentions. If the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1, and cases cited therein).

Complainant has rights in the FB marks in the U.S. since 2014 and in the EU since 2011, and has rights in the META since 2021, which precede Respondent’s registrations of all the disputed domain names (2022). According to the Complaint, Complainant operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus) and WhatsApp. Complainant’s focus is to bring the metaverse to life and to help people connect, find communities and grow businesses. Founded in 2004, Complainant, formerly known as “Facebook, Inc.”, is the leading provider of online social networking services. Facebook is currently ranked as the 4th app by downloads for iOS phones worldwide.

Complainant asserts that it has not authorized Respondent to use its FB and/or META marks, and Respondent is not a licensee of Complainant. Complainant has therefore established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain names and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (*The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain names:

- (a) There has been no evidence adduced to show that Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services. Respondent has not provided evidence of legitimate use of the disputed domain name or reasons to justify the choice of the term “fb” and/or “meta” in the disputed domain names. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the FB and/or META marks or to apply for or use any domain names incorporating the FB and/or META marks;

- (b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain names. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain names. Respondent registered the disputed domain names in 2022, after the FB and/or META marks became internationally known. The disputed domain names are confusingly similar to Complainant's FB and/or META marks;
- (c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain names. The disputed domain names resolve to a website that purports to offer Facebook and other social media (e.g., Instagram, Twitter and TikTok) accounts for sale for use in various contexts, and a website that prominently provides the link of "http://meta-fbvip.com/" at the top of the homepage and leads Internet users to visit the website resolved by two other disputed domain names (as mentioned above).

The Panel finds that Respondent has failed to produce any evidence to rebut Complainant's *prima facie* case. The Panel, therefore, holds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain names in bad faith, namely:

- (i) circumstances indicating that Respondent has registered or acquired the disputed domain names primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) Respondent has registered the disputed domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) Respondent has registered the disputed domain names primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain names, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's websites or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's websites or location or of a product or service on the websites or location.

The Panel concludes that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain names in bad faith.

(a) Registration in Bad Faith

The Panel finds that Complainant has a widespread reputation in the FACEBOOK, FB and META marks with regard to its products or services. Complainant has registered its FB marks in the U.S. since 2014, and registered in the EU since 2011, and registered its META marks in the U.S. since 2021. As introduced above, Facebook is currently ranked as the 4th app by downloads for iOS phones worldwide. Currently inaccessible in mainland China where Respondent is based, Complainant's services are far from unknown to the Chinese public. Numerous Chinese press articles (notably including China's state media People's Daily) have reported on the international popularity of Complainant's services. Facebook has acquired a considerable reputation and goodwill throughout the world, including in China. All the disputed domain

names were registered (in 2022) after Complainant's registration of FB and META marks (since at least 2014 and 2021). It is not conceivable that Respondent would not have had actual notice of Complainant's trademark rights at the time of the registration of the disputed domain names.

Moreover, Respondent has chosen not to respond to Complainant's allegations. According to the UDRP decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, *supra*, "the failure of Respondent to respond to the Complaint further supports an inference of bad faith". See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Thus, the Panel concludes that the disputed domain names were registered in bad faith.

(b) Use in Bad Faith

Respondent is using the website resolved by <fb-svip.com> and <meta-fbvip.com> to purport to offer Facebook and other social media (e.g., Instagram, Twitter and TikTok) accounts for sale for use in various contexts; and is using a website resolved by <fb-vip.com> to induce Internet users to visit the website resolved by two other disputed domain names (as mentioned above). Thus, the Panel concludes that Respondent is using the confusingly similar disputed domain names with the intention to attract, for commercial gain, Internet users to Respondent's websites.

Given the reputation of the FB and META marks, the Panel finds that the public is likely to be confused into thinking that the disputed domain names have a connection with Complainant, contrary to the fact. There is a strong likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the websites to which the disputed domain names resolve. In other words, Respondent has through the use of the confusingly similar disputed domain names created a likelihood of confusion with the FACEBOOK, FB and META marks.

The Panel, therefore, concludes that the disputed domain names were registered and are being used by Respondent in bad faith. Such use of the disputed domain names is also disruptive in relation to the interests of Complainant.

In summary, Respondent, by choosing to register and use the disputed domain names, which are confusingly similar to the FB and/or META marks, intended to ride on the goodwill of this trademark in an attempt to exploit, for commercial gain, Internet users destined for Complainant. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain names and the conducts of Respondent as far as the websites to which the disputed domain names resolve are indicative of registration and use of the disputed domain names in bad faith.

Moreover, the Panel notes that the evidence provided by Complainant shows that Respondent registered other domain names incorporating the trademarks of third parties.

The Panel, therefore, holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

7. Decision

For all 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 <fb-svip.com>, <fb-vip.com>, and <meta-fbvip.com> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Dated: July 4, 2023