

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Paolo Sulis,  
Jada Co., Ltd  
Case No. D2023-3019

### **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 Paolo Sulis, Jada Co., Ltd, Japan.

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

The disputed domain name <meta-quest2.com> is registered with Domain.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 13, 2023. On July 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 14, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 July 20, 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 July 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 14, 2023. The Respondent sent two email communications to the Center on August 14 and August 15, 2023. On August 16, 2023, the Complainant informed the Center that it did not want to settle.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on August 30, 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 Complainants are Meta Platforms, Inc. (“Meta Platforms”), formerly known as Facebook, Inc., and its wholly-owned subsidiary Meta Platforms Technologies, LLC (“Meta Platforms Technologies”), formerly Facebook Technologies, LLC, collectively referred to as “Complainant”. Meta Platforms operates various internationally well-known online platforms and networks, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), WhatsApp, and Metaverse; and Meta Platforms Technologies is the intellectual property rights holder for various technologies owned by Meta Platforms.

The Complainant owns numerous trademark registrations for META and QUEST in many jurisdictions throughout the world, including:

- United States trademark registration No. 5548121, META, registered on August 28, 2018, assigned to the Complainant on October 26, 2021;
- Chinese trademark registration No. 33818197, QUEST, registered on June 14, 2019;
- European Union trademark registration No. 017961685, QUEST, registered on June 16, 2020; and
- United States trademark registration No. 6279215, QUEST, registered on February 23, 2021.

The aforementioned trademark registrations will collectively be referred to as the “META and QUEST marks”, and individually as the “META mark”, and the “QUEST mark”, respectively.

Prior decisions under the Policy have recognized the internationally well-known character of the META and QUEST marks.<sup>1</sup>

The Complainant further owns numerous domain names consisting of or including the META mark under a wide range of generic Top-Level Domains (“gTLDs”) as well as under numerous country code Top-Level Domains (“ccTLDs”).

The disputed domain name was registered on January 6, 2022, and, at the time of drafting this decision, it is apparently inactive.

According to the evidence provided by the Complainant, the disputed domain name was initially redirected to a website at “www.oculus.jada-jp.com”, titled “Cracked games for Oculus (Meta) Quest 2”, which described itself as “a Oculus Quest pirated VR games download site”, and offered pirated games described as “Cracked, patched, warez pirated oculus, meta (Oculus) quest 1 and 2 games for free”. This website referred to the pirated games as an alternative for Internet users who were “Not ready to plunk down a lot of money on Quest 2 games”, and it featured commercial advertisements as well as an image of a VR headset similar to the Complainant’s Meta Quest 2 headset, alongside the wording “META QUEST FREE”.

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<sup>1</sup> See, e.g., *Meta Platforms, Inc., Meta Platforms Technologies, LLC v. 叶昭龙 (Ye Zhao Long)*, WIPO Case No. [D2022-4981](#); *Meta Platforms, Inc., and Meta Platforms Technologies, LLC v. DeJuan Thompson*, WIPO Case No. [D2023-1194](#); *Meta Platforms, Inc., and Meta Platforms Technologies, LLC v. 卢长富 (Chang Fu Lu)*, WIPO Case No. [D2023-2329](#); and *Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Libin*, WIPO Case No. [D2022-4996](#).

On April 11, and April 17, 2023, the Complainant attempted to contact the Respondent via the Registrar's contact form, but the Respondent did not reply to the Complainant's communications.

According to the evidence provided by the Complainant, after the above-mentioned Complainant's communications were submitted, the pointing of the disputed domain name changed. It redirected to a website titled "Meta Quest Best ever Games and Apps", at "www.meta-quest2.com/index.html", which described itself as "The Best Meta Quest Games", indicating that "This is a great resource for Oculus (Meta) Quest headset Games and Apps only the best ever games versions for free review". The review pages included in this website featured various advertising banners to third-party goods and services. This website included as only contact information a generic email address ("info@meta-quest2.com"), did not include any information about its owner or that of the disputed domain name, or any disclaimer-like statement clarifying its non-affiliation with the Complainant, and its footer stated "Copyrights Meta Quest games. All Rights Reserved".

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the inclusion of the META and QUEST marks in their entirety in the disputed domain name is sufficient to establish confusing similarity between the disputed domain name and the Complainant's trademarks. The addition of the number "2" and the gTLD ".com" do not prevent a finding of confusing similarity.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, is not authorized to use the Complainant's trademarks, and is not using the disputed domain name in connection with any *bona fide* offering of goods or services or any fair use. Offering for download unauthorized and pirated copies of the Complainant's VR games infringes the Complainant's intellectual property rights and cannot be considered a *bona fide* use. The subsequent use of the disputed domain name was merely intended to create an appearance of legitimacy as it features advertisements, and the included "reviews" do not appear to be genuine, but rather appear to have been compiled using third-party content sourced from elsewhere on the Internet.

The disputed domain name was registered and is being used in bad faith. The Respondent cannot credibly argue that it did not have the META and QUEST marks in mind when it registered the disputed domain name as these trademarks are well-known internationally, and extensively present over the Internet. All the leading results obtained by searching for "meta quest" using the Google search engine refer to the Complainant. The use of the disputed domain name and the Respondent's failure to reply to the pre-Complaint notices submitted by the Complainant's lawyers corroborate the Respondent's bad faith.

The Complainant has cited previous decisions under the Policy that it considers supportive of its position, and requests the transfer of the disputed domain name.

### **B. Respondent**

The Respondent did not reply to the Complainant's contentions. On the contrary, on an email communication to the Center dated August 14, 2023, the Respondent indicated that "[...] If there is a problem with that domain, you can delete the domain or transfer it exactly the same for me, I don't need it anymore.[...]".

On the email communication to the Center dated August 15, 2023, the Respondent similarly indicated that “[...] As per my last mail, no problem at all for me to cancel or transfer the domain.[...]”.

## **6. Discussion and Findings**

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

### **A. Procedural Questions: Multiple Complainants**

The Panel considers that the Complainants have a specific common grievance against the Respondent, and the Respondent has engaged in a common conduct that has affected the Complainants in a similar fashion. The Panel finds that the consolidation of the Complaint filed by the Complainants against the Respondent is therefore equitable and procedurally efficient. See section 4.11, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

### **B. Respondent’s Consent for the Transfer of the Disputed Domain Name to the Complainant**

After the notification of the Complaint, the Respondent sent an email communication to the Center indicating its unilateral consent for the deletion or the transfer to the disputed domain name to the Complainant.

The Panel considers that the Respondent has therefore given its consent to the remedy requested by the Complainant, and orders the requested remedy on the basis of this consent. See section 4.10, [WIPO Overview 3.0](#).

Furthermore, the Panel considers that the Complainant has satisfied each of the elements required under the Policy for a transfer of the disputed domain name as briefly analyzed below.

### **C. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel further finds the entirety of the META and QUEST marks are reproduced within the disputed domain name separated by a hyphen and adding a number “2” and the gTLD “.com”. The Complainant’s trademarks are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to these marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

### **D. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible

task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (e.g., the offer of pirated software) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The subsequent use of the disputed domain name for a website that contained “reviews” of the Complainant’s games and related products cannot be considered a fair use of the disputed domain name, as this website contained advertisements of third parties’ products, for which the Respondent presumably obtained a commercial revenue. See section 2.7, [WIPO Overview 3.0](#).

The current apparently nonuse of the disputed domain name does not cure the lack of rights or legitimate interests in the Respondent or its bad faith.

Therefore, based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panels notes the international reputation of the Complainant and its trademarks and their extensive presence over the Internet.

In the present case, according to the evidence provided by the Complainant, the Respondent registered and used the disputed domain name to resolve to websites that (i) provided pirate software related to the Complainant’s games and related products; and, subsequently, (ii) provided reviews referred to Complainant’s products, and included advertisements of third parties’ products and services. This prior use of the disputed domain name evidences the Respondent knew of the Complainant and its trademarks and registered and used the disputed domain name targeting these trademarks in bad faith, to increase the traffic of its websites for an illegal activity and for commercial gain. Such conduct of the Respondent constitute bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Additionally, and considering that currently the disputed domain name is inactive, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant's trademarks, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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, <meta-quest2.com>, be transferred to the Complainant.

*/Reyes Campello Estebarez/*

**Reyes Campello Estebarez**

Sole Panelist

Date: September 13, 2023