

## **ADMINISTRATIVE PANEL DECISION**

### **Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Jinchuan wen Case No. D2023-3552**

#### **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 Jinchuan wen, China.

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

The disputed domain names <metaquest.click>, <metaquest.live>, <metaquest.network>, <metaquest.one>, and <metaquest.world> are registered with Porkbun LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2023. On August 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 23, 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 Respondents (Whois Privacy, Private by Design LLC), and contact information in the Complaint. The Center sent an email communication to the Complainants on August 28, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on August 29, 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 August 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on November 1, 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**

Meta Platforms, Inc. (“Meta”) is a technology company that operates Facebook, Instagram, Meta Quest (formerly Oculus) and WhatsApp. Meta, formerly known as Facebook Inc. publicly announced its change of name to Meta Platforms Inc on October 28, 2021.

Meta owns numerous registrations around the world for the mark META, including United States Trademark Registration No. 5548121, registered on August 28, 2018.

Meta Platforms Technologies, LLC (“Meta Technologies”) is a wholly owned subsidiary of Meta and is the intellectual property rights holder for various technologies owned by Meta. Meta Technologies owns numerous registrations around the world for the mark QUEST, including:

- United States Trademark Registration No. 6279215 for QUEST, registered on February 23, 2021
- Hong Kong China Trademark Registration No. 305847175 for META QUEST, registered on August 11, 2022
- China Trademark Registration No. 3381897 for QUEST, registered on June 14, 2019.

The Complainants trademarks are widely promoted on the Internet, notably through the registration of domain names consisting of or including META QUEST and through social media platforms.

The disputed domain names were registered at the following dates:

- <metaquest.click>, <metaquest.live> and <metaquest.world> on January 5, 2023
- <metaquest.network> and <metaquest.one> on January 6, 2023.

On July 24, 2023, the Complainants’ legal representatives submitted notices via the Registrar’s registrant contact form in order to attempt to resolve the matter amicably. The same day the Respondent replied using the email address “...@qq.com” that he could transfer “metaquest for free as part of the compensation” if the “company still has a need to acquire meta domains”. The Complainant requested the same day and asked for the sending of the authorization codes in order to organize the transfer of the disputed domain names. No further response was given by the Respondent.

At the time of the filing of the Complaint, the disputed domain names redirect to the Dan.com parking website that contains pay-per-click (“PPC”) links relating to the third website services with the following sentence:

“Hum, this page is gone. This domain listing is deleted. The domain might become available for sale again in the future. Check back later.”

#### **5. Parties’ Contentions**

##### **A. Complainants**

The Complainants request for consolidation of multiple Complainants and for the transfer of the disputed domain names based on the following grounds:

Firstly, the Complainants contend that the disputed domain names are identical or confusingly similar to the Complainants' trademarks. The Complainants own numerous trademark registrations for META, QUEST, and META QUEST. The disputed domain names consist of the Complainants' Trademarks (as it includes the trademark META, the trademark QUEST and the trademark META QUEST with the omission of the space between the two parts of the latter trademark). The generic Top-Level Domains ("gTLD") ".click", ".live", ".network", ".one" and ".world" may be disregarded for purposes of assessing confusing similarity as it is viewed as standard requirement of registration.

Secondly, the Complainants contend that the Respondent has no rights or legitimate interests in the disputed domain names, notably because the Respondent (i) is not using the disputed domain names in connection with any *bona fide* offering of goods or services (ii) has not made preparations to use the disputed domain names, (iii) is not a licensee of the Complainants, (iv) has not been authorized and is not affiliated with the Complainants in any way. In this context, the Complainants underline that the disputed domain names redirect to a Dan.com parking site listing it for sale, which is not a *bona fide* use and that the disputed domain names are composed of a combination of terms that are exclusively associated with the Complainants, thereby creating confusion with their trademarks. Further, there is no evidence of the Respondent having acquired or applied for any trademark registration for METAQUEST or any variation thereof. Additionally, the Respondent is not making a legitimate non-commercial or fair use of the disputed domain names as it offered these for sale. The Complainants also state that the composition of the disputed domain names incorporating the Complainants' Trademarks carries a high risk of implied affiliation with the Complainant.

Thirdly, the Complainants contend that the disputed domain names were registered and used in bad faith. Indeed, the Complainants' trademarks META, QUEST and META QUEST are well-known and their adoption attracted significant media attention internationally including in China where the Respondent is based. All top results obtaining by typing META QUEST in Google and Baidu refer to the Complainants. The Respondent does not make a *bona fide* use of the disputed domain names when listing these for sale via Dan.com. In addition, the Complainants note that the Respondent has engaged in a pattern of conduct by registering multiple domain names containing third party trademarks for the purpose of preventing the owners from reflecting their marks in corresponding domain names. In the present circumstances, the Respondent's use of a privacy service to conceal its identity with regard to the disputed domain names is an inference of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Procedural aspect – Multiple complainants**

The Complainants request consolidation in accordance with paragraph 10 (e) of the UDRP Rules, which grants a panel the power to consolidate multiple domain name disputes (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1).

The Complainants have jointly brought this proceeding against the Respondent because they are related business organizations belonging to the same Group of companies and this proceeding involves trademarks owned by each of the Complainants.

The Complainants have been target of common conduct by the Respondent who has engaged in registering the disputed domain names comprising their trademarks.

The Respondent has not contested the consolidation request made by the Complainants.

The Panel agrees with the Complainant's arguments and accepts the consolidated Complaint against the Respondent regarding the disputed domain names.

### **Policy Requirements**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

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

- (i) that the domain name registered by the respondent 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 domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

#### **A. Identical or Confusingly Similar**

The Complainants have shown to have obtained trademark rights in META and QUEST in several countries including in the United States and China.

According to section 1.7 of the [WIPO Overview 3.0](#), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain names are confusingly similar to the Complainants' registered trademarks META and QUEST since the disputed domain names contain both these marks in entirety.

The gTLD's <.click>, <.live>, <.network>, <.one> and <.world> are viewed as a standard registration requirement, and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain names.

#### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainants establish a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainants have made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain names.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks. There is no evidence showing that the Respondent would be commonly known by the disputed domain names or that a legitimate business would be run by the Respondent under the disputed domain names.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain names on the part of the Respondent in these proceedings.

The Panel notes that the disputed domain names resolve to a Dan.com parking site containing PPC links relating to the third website services. As is clear from section 2.9 of the [WIPO Overview 3.0](#), UDRP panels have consistently found that such use of a domain name can neither be considered legitimate noncommercial or fair use of the domain name nor a *bona fide* offering of goods or services.

As already stated before, nothing is contained in the case file which would show that the disputed domain names have been legitimately noncommercial or fairly used by the Respondent or that the Respondent would have any rights or legitimate interests in the disputed domain names.

Furthermore, the nature of the disputed domain names, incorporating both the Complainants' trademarks META and QUEST in entirety carries a high risk of implied affiliation. (See section 2.5.1 of the [WIPO Overview 3.0](#))

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain names.

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

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the holder's respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's respondent's website or location or of a product or service on the holder's respondent's website or location.

Accordingly, for the Complainants to succeed, the Panel must be satisfied that the disputed domain names were registered and are being used in bad faith.

Given the circumstances of the case, including the fact that the disputed domain names identically reproduce both the Complainants META and QUEST trademarks and resolve to a webpage offering these disputed domain names for sale, it is inconceivable to the Panel that the Respondent registered the disputed domain names without prior knowledge of the Complainants trademarks and business which is widely promoted worldwide through the Complainants' social media and have been the object of a wide media coverage.

The Respondent's bad faith registration and use is further evidenced by the offering for sale of the domain names, the failure to respond to the Complainants' notice and the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use of the inherently misleading disputed domain names.

Indeed, the Respondent has not contested the allegations made by the Complainant and his silence in these proceedings is an additional evidence of bad faith in these circumstances. The Panel therefore finds that the disputed domain names were registered and are being used in bad faith.

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain names.

## **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 names, <metaquest.click>, <metaquest.live>, <metaquest.network>, <metaquest.one>, and <metaquest.world> be transferred to the Complainant (Meta Platforms, Inc.).

*/Theda König Horowicz/*

**Theda König Horowicz**

Sole Panelist

Date: November 24, 2023