

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Abdulrahman Sayegh, SayeghShop  
Case No. D2023-3736

### **1. The Parties**

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

The Respondent is Abdulrahman Sayegh, SayeghShop, Germany.

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

The disputed domain name <facenett.com> (the “Domain Name”) is registered with CloudFlare, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2023. On September 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 7, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 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 September 13, 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 September 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 11, 2023. Email communications from what appeared to be the Respondent were sent to the Center on September 11 and 15, 2023. On September 14, 2023, the Center received an email from the Complainant, acknowledging receipt of an email that they received from the Respondent.

The Center appointed Nicholas Smith as the sole panelist in this matter on October 17, 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 a leading provider of online social networking services. Since 2004 the Complainant and its predecessor in title has operated a well-known social media network from its website at “www.facebook.com” (the “Complainant’s Website”) where it has 3.03 billion monthly active users.

The Complainant is the owner of trademark registrations in various jurisdictions (including the European Union and United States) for marks consisting of the word “facebook” (the “FACEBOOK Mark”) including United States registration No. 3041791 registered on January 10, 2006. The Complainant is also owner of trademark registrations in various jurisdictions (including the European Union and United Kingdom) for marks consisting of the word “face” (the “FACE Mark”) including European Union registration No. 003852779 registered on October 3, 2006.

The Domain Name was registered on January 31, 2021. The Domain Name resolved to a website (the “Respondent’s Website”) that prominently reproduced the FACE Mark, and much of the design and layout of the Complainant’s Website.

#### **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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the FACE Mark, having registered the FACE Mark in various jurisdictions including the European Union. The Domain Name is confusingly similar to the FACE Mark as it reproduces the FACE Mark in its entirety and adds the term “nett” which means “nice” in German.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the FACE Mark. The Respondent is not commonly known by the FACE Mark, nor does it use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant for commercial gain by purporting to offer a social media network in direct competition with the Complainant’s Facebook network. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent’s Website to disrupt the Complainant’s business and divert Internet users searching for the Complainant to a competing website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

##### **B. Respondent**

The Respondent did not formally reply to the Complainant’s contentions. On September 11 and 15, 2023 the Center received communications from the Respondent which did not address the Complainant’s contentions in any way, the second of the communications stating “Get lost. You don’t have the right to my domain name”.

## 6. Discussion and Findings

### A. 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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here "nett", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

### B. 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 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 Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent's use of the Domain Name to resolve to a webpage reproducing the Complainant's FACE Mark and purporting to offer to social media services in direct competition with the Complainant, through a website (the Respondent's Website) which copies much of the design and layout of the Complainant's Website, does not amount to use for a *bona fide* offering of goods and services. Rather, it appears that the purpose behind the Respondent's Website is to encourage visitors, under the impression that they are dealing with the Complainant, to sign up and log in with the Respondent, such conduct not being *bona fide*.

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 Panel finds that the Respondent must have been aware of the Complainant and its significant global reputation in the FACE and FACEBOOK Marks at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name incorporating the FACE Mark (with the addition of the term "nett") and direct it to a website purportedly offering a social media network unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its FACE and FACEBOOK Marks.

The Respondent's Website purports to offer a social media network in direct competition with the Complainant. Noting the fame of the FACE and FACEBOOK Marks, the absence of any explanation for the Registration and the similarity in design and layout between the Respondent's Website and the Complainant's Website, the Panel considers that the most likely explanation is that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the FACE and FACEBOOK Marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 Domain Name, <facenett.com>, be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: October 24, 2023