

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Carlos  
Case No. D2023-4487

### **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 Carlos, United States.

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

The disputed domain name <facebookmetaverified.com> is registered with Squarespace Domains II LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 27, 2023. On October 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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 November 2, 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 November 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 28, 2023.

The Center appointed Dennis A. Foster as the sole panelist in this matter on December 6, 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, Meta Platforms, Inc., (“Meta”) is a United States social technology company that owns and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly “Oculus”) and WhatsApp. Meta’s focus is to bring the metaverse to life and to help people connect.

Founded in 2004, the Complainant’s Facebook platform (“Facebook”) is a leading provider of online social media and social networking services.

Today, Facebook has approximately 3.05 billion monthly active users and 2.09 billion daily active users on average worldwide (as of September 30, 2023). With approximately 85 percent of its daily active users outside the United States and Canada, Facebook’s social networking services are provided in more than 70 languages.

In addition to its online presence, the Complainant owns trademark registrations for FACEBOOK and META in a number of jurisdictions, including the following:

- United States Trademark Registration No. 3041791, FACEBOOK, registered on January 10, 2006;
- European Union Trade Mark Registration No. 005585518, FACEBOOK, registered on May 25, 2011;
- International Trademark Registration No. 1075094, FACEBOOK and device, registered on July 16, 2010;
- United States Trademark Registration No. 5548121, META, registered on August 18, 2018 and assigned to the Complainant on October 26, 2021.

On February 19, 2023 (i.e., the same day that the disputed domain name was registered), the Complainant launched a new subscription service known as “Meta Verified”, which allows verified users to add a blue check mark to their Instagram and Facebook accounts for a monthly fee, and which offers benefits such as increased visibility, improved protection against impersonation attacks and direct access to customer support. This new offering is now available in many countries worldwide.

The Complainant was recently made aware of the Respondent’s registration of the disputed domain name which is composed of the Complainant’s FACEBOOK and META trademarks followed by the term “verified” under the generic Top-Level-Domain (“gTLD”) “.com”.

At the time of filing of the Complaint, the disputed domain name resolved to an inactive web page, and there is no evidence that it has ever resolved to an active website since it was registered on February 19, 2023.

On September 1, 2023, in an attempt to resolve the matter amicably, the Complainant sent a cease-and-desist letter to a privacy email address obtained from the registrant email listed in the publicly available Whois record. No response was received, and the Complainant followed up by bringing this UDRP action.

The Respondent did not file any response to the Complaint, and the disputed domain name has remained inactive since its registration on February 19, 2023.

## 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 Complainant owns trade mark registrations for FACEBOOK and META in various jurisdictions, examples of which are provided in the Factual Background section above.

The Complainant has therefore established trade mark rights in FACEBOOK and META for the purposes of paragraph 4(a)(i) of the Policy.

The disputed domain name wholly incorporates the Complainant's FACEBOOK and META trade marks with the addition of the term "verified" under the gTLD ".com".

The Complainant submits that the presence of the combination of its FACEBOOK and META trade marks in the disputed domain name is sufficient to establish confusing similarity between the disputed domain name and the Complainant's trade marks.

The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy. Nor is the Respondent commonly known by the disputed domain name per paragraph 4(c)(ii), nor making a fair use of the disputed domain name per paragraph 4(c)(iii).

It is well established that non-use of a disputed domain name would not prevent a finding of bad faith under the doctrine of passive holding.

The disputed domain name should be transferred from the Respondent to the Complainant.

### B. Respondent

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

It is the consensus of UDRP decisions that the first element functions primarily as a standing requirement. The standing or threshold test for confusing similarity involves a comparison between the Complainant's trademark and the disputed 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 of the Complainant's many, worldwide trademark registrations *supra*, 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 Complainant's FACEBOOK and META trademarks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term here, namely "verified", may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The Panel also finds that the gTLD ".com" is not taken into consideration for determining identity or confusing similarity given that all domain names must have a TLD. [WIPO Overview 3.0](#), section 1.11.1.

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.

Although 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 disputed domain name may result in the difficult 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 disputed 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 available 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 Complainant asserts that the Respondent has no permission from the Complainant to use its trademarks 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 at paragraph 4(c)(i, ii and iii) or otherwise.

The Respondent has done nothing but passively hold the disputed domain name since its registration on February 19, 2023. In particular, there is no evidence in the record that the Respondent is using or plans to use the disputed domain name for a *bona fide* offering of goods and services per Policy paragraph 4(c)(i). Nor does the record show that the Respondent is commonly known as the disputed domain name per 4(c)(ii), nor is making a fair use of the disputed domain name per 4(c)(iii).

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 disputed domain name in bad faith.

Panels have found that the non-use of a disputed domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available 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. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes that factors (i), (ii) and (iii) are all present. The Panel notes in particular the distinctiveness and fame of the Complainant's FACEBOOK and META trademarks, and finds that in the circumstances of this case, the passive holding of the disputed domain name warrants a finding of bad faith under the Policy per the above listed factors. It is noteworthy that the Respondent's bad faith extended to registering the disputed domain name, <facebookmetaverified.com> on the same day (February 19, 2023) that the Complainant began using this name for a new service of the same name. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Per the above discussion, the Panel finds that the Complainant has established the third element of the Policy.

## **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 <facebookmetaverified.com> be transferred to the Complainant.

*/Dennis A. Foster/*

**Dennis A. Foster**

Sole Panelist

Date: December 20, 2023