

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc., Meta Platforms Technologies, LLC v.  
Sachihisa SAISHIKI  
Case No. D2023-4699

### **1. The Parties**

The Complainants are Meta Platforms, Inc., United States of America (“United States”), and Meta Platforms Technologies, LLC, United States, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Sachihisa SAISHIKI, Japan.

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

The disputed domain name <metaquest.tokyo> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 13, 2023. On November 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 (Whois Privacy Protection Service by onamae.com) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 15, 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 in English on November 18, 2023.

On November 15, 2023, the Center informed the parties in Japanese and English, that the language of the registration agreement for the disputed domain name is Japanese. On November 15, 2023, the Complainants requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainants’ submission.

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 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 15, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on December 28, 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, and operates, *inter alia*, Facebook, Instagram, WhatsApp, and Meta Quest (formerly Oculus).

The Complainant Meta, formerly known as Facebook Inc., announced its change of name to Meta Platforms Inc. on October 28, 2021, and this was publicized worldwide. Meta's focus is to bring the metaverse to life and to help people connect, find communities, and grow businesses. The metaverse will feel like a hybrid of today's online social experiences, sometimes expanded into three dimensions, or projected into the physical world. It will let users share immersive experiences with other people even when they cannot be together — and do things together they could not do in the physical world.

The Complainant, Meta Platforms Technologies, LLC (Meta Platforms Technologies), is the intellectual property rights holder for various technologies owned by Meta. Meta Platforms Technologies initially operated under the corporate name of its predecessor in interest, Oculus VR, LLC, and then changed its name to Facebook Technologies, LLC in 2018.

The Complainant Meta Platforms Technologies was acquired by the Complainant Meta on March 2014. After the acquisition the Complainant Meta Platforms Technologies rapidly acquired and developed considerable goodwill and renown worldwide, in connection with its virtual reality ("VR") software and apparatus, including the "Oculus Quest" headsets which was released on May 21, 2019 and considered as one of the Complainant's most popular headsets.

On October 28, 2021, Andrew Bosworth, Meta's Chief Technology Officer, announced that "Starting in early 2022, [users will] start to see the shift from Oculus Quest from Facebook to Meta Quest and Oculus App to Meta Quest App over time". It currently markets and offers its VR products (including the "Meta Quest" headsets) via its official website at "<https://www.meta.com/gb/en/quest/>".

Reflecting its global reach, the Complainants are the registrant of numerous domain names consisting of or including the META trade mark under a wide range of generic Top-Level Domains ("gTLDs") as well as under numerous country code Top-Level Domains ("ccTLDs").

The Complainants have also made substantial investments to develop a strong presence online by being active on various social-media platforms, including Facebook, Twitter, and LinkedIn. For instance, Meta's official page on Facebook has over 78 million "likes" and more than 13 million followers on X (formerly Twitter).

In addition to its strong presence online, the Complainants have secured ownership of numerous trade mark registrations for META and QUEST in many jurisdictions throughout the world, including but not limited to the following:

- United States Trade Mark No. 5548121, META, registered on August 28, 2018;
- Monaco Trade Mark No. 2200039, META, registered on February 8, 2022;
- Japanese Trade mark No. 6419930, QUEST, registered on July 26, 2021;

- United States Trade Mark No. 6279215, QUEST, registered on February 23, 2021; and
- European Union Trade Mark No. 017961685, QUEST, registered on June 16, 2020.

The disputed domain name was registered on November 24, 2021. The disputed domain name points to a parking page in Japanese provided by the Registrar. The Complainants are not aware of any other substantive use of the disputed domain name by the Respondent.

On September 19, 2023, the Complainants' lawyers sent a cease and desist letter to the Respondent using the email address listed in the WhoIs. In this letter, the Complainants' lawyers asserted the Complainants' trademark rights and requested transfer of the disputed domain name. No response was received.

## **5. Parties' Contentions**

### **A. Complainant**

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

Notably, the Complainants contend that the Complainants own numerous trade mark registrations for META and QUEST in jurisdictions throughout the world and that therefore established trade mark rights in META and QUEST in numerous jurisdictions, including, but not limited to Japan.

The disputed domain name combines the Complainants' META and QUEST trademarks and is therefore confusingly similar to the Complainants' trademarks.

The gTLD ".tokyo" may be disregarded for the purposes of comparison under the first element, as it is viewed as a standard requirement of registration, so it does not prevent a finding of confusing similarity between the disputed domain name and the Complainants and their trademark.

### **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

The Complainants are required to establish the requirements specified under paragraph 4(a) of the Policy:

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

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Japanese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainants requested that the language of the proceeding be English for several reasons, including the fact that: (i) the disputed domain name consists of Latin characters rather than Japanese characters; (ii) the disputed domain name is registered under a gTLD comprising the English language term "tokyo"; (iii) it would be disproportionate to require the Complainants,

which operate primarily in English, to translate and submit the present Complaint in Japanese as this would result in additional expenses and unnecessary delay for the Complainants.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## 6.2 Substantive Issues

### 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 Complainants' trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainants have 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 disputed domain name combines the Complainants' META and QUEST trademarks and is therefore confusingly similar to the Complainants' trademarks. Accordingly, the disputed domain name is confusingly similar to the mark 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.

### 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 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 domain name (although the burden of proof always remains on the complainant). 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 Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' *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.

The disputed domain name points to a parking page provided by the Registrar. Prior panels have held that automatically parked pages (often provided by the concerned registrar) are analogous to passive holding. Such passive holding of domain names does not by itself amount to a *bona fide* offering of goods or services under the Policy.

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

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

The Complainants' META and QUEST trademarks are well known internationally in connection with the Complainants' VR software and apparatus. The Complainants submit that when confronted with the combination of the Complainants' META and QUEST trademarks, many Internet users would be confused and wrongly assume that the disputed domain name is owned by or otherwise endorsed by the Complainants.

The Respondent has registered the disputed domain name to make a connection with the Complainants through disputed domain name. The disputed domain name has been chosen to deliberately incorporate the entirety of the Complainants' trademarks.

Despite the relatively recent re-naming of the Complainants' company as "Meta Platforms, Inc.", the Complainants' META trademark is already well known throughout the world and closely associated with the Complainants' goods and services, the Complainants' re-naming having attracted significant international media attention, while the Complainants' services are used by billions of monthly active users across the globe, it is evident from the Respondent's use of the disputed domain name that the Respondent knew of the Complainants' trademarks when registering the disputed domain name and intentionally registered the disputed domain name to take advantage of the Complainants' trademarks and reputation and goodwill.

The Panel finds that the Respondent registered the disputed domain name in bad faith.

As to the use, the disputed domain name points to a parking page provided by the Registrar. Prior panels have held that automatically parked pages are analogous to passive holding. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "[w]hile 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." In this case, based on the global fame and reputation of the Complainants' trademark, the lack of response from the Respondent, the nature of the disputed domain name combining the Complainants' META and QUEST trademarks following the launch of their product and the implausibility of any good faith use the misleading disputed domain name may be put, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding in this case.

The Panel finds that the Complainants have 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 <metaquest.tokyo> be transferred to the Complainant Meta Platforms, Inc.

*/Erica Aoki/*

**Erica Aoki**

Sole Panelist

Date: January 11, 2024