

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. 林建 (lin jian)
Case No. D2023-5051

1. The Parties

The Complainants are Meta Platforms, Inc. (the “First Complainant”) and Meta Platforms Technologies, LLC, (the “Second Complainant”) both located in the United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is 林建 (lin jian), China.

2. The Domain Name and Registrar

The disputed domain name <metaquestultra.com> is registered with Jiangsu Bangning Science & Technology Co. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8 and 12, 2023, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainants on December 12, 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 December 15, 2023.

On December 12, 2023, the Center sent another email communication to the Parties in Chinese and English regarding the language of the proceeding. On December 12, 2023, the Respondent sent an email communication to the Center in Chinese in which he requested that the Center communicate with him in Chinese. On December 14, 2023, the Respondent sent another email communication in Chinese to the Center. On December 15, 2023, the Complainants confirmed their request that English be the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on December 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2024. Other than his informal email communications of December 12 and 14, 2023, the Respondent did not submit any formal Response. On January 8, 2024, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Matthew Kennedy as the sole panelist in this matter on January 16, 2024. 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 First Complainant (formerly named “Facebook, Inc.”) is a social technology company that operates Facebook, Instagram, Meta Quest (formerly “Oculus Quest”), and WhatsApp. On October 28, 2021, the First Complainant announced that its “Oculus Quest” virtual reality software and apparatus product line would be rebranded as the “Meta Quest” line, and the “Oculus App” would become the “Meta Quest App”. The evidence on record shows that the product name change to “Meta” was reported in the Chinese press as early as 2022. The First Complainant holds various trademark registrations, including the following:

- United States trademark registration number 5548121 for META, registered on August 28, 2018 and assigned to the Complainant on October 26, 2021, specifying services in classes 35 and 42;
- Chinese trademark registration number 58225856 for META, registered on January 28, 2022, specifying goods in class 22; and
- Hong Kong, China trademark registration number 305847175 for META QUEST, registered on August 11, 2022, specifying goods and services in multiple classes.

The Second Complainant (formerly known as “Facebook Technologies, LLC”) is a wholly-owned subsidiary of the First Complainant that markets “Meta Quest” virtual reality headsets. The Second Complainant holds various trademarks, including the following:

- Chinese trademark registration number 33818197 for QUEST, registered on June 14, 2019, specifying services in class 45.

The Second Complainant also uses the domain name <meta.com> in connection with an online store where it markets “Meta Quest” headsets, among other products.

The Respondent is an individual based in China. According to Whois records submitted by the Complainants, the Respondent is a former registrant of the domain name <tiktoko.com> and his telephone and email contact details are currently associated with the domain name <metaquest.fi>.

The disputed domain name was registered on March 26, 2023. It formerly resolved to a webpage on a domain name broker’s website offering it for sale for the price of USD 38,000 to “buy now” or USD 1,742 to “lease to own”. At the time of filing the amended Complaint, the disputed domain name no longer resolves to any active webpage, but it is still listed for sale on the domain name broker’s website for the same prices.

On September 15, 2023, the Complainant submitted a notice to the registrant via the Registrar’s registrant contact form but received no reply.

5. Parties' Contentions

A. Complainants

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

Notably, the Complainants contend that the disputed domain name is confusingly similar to the Complainants' META, META QUEST, and QUEST marks. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with the Complainants in any way. The Complainants have not granted any authorization for the Respondent to make use of its trademarks. The disputed domain name was registered and is being used in bad faith.

The Complainants request that the disputed domain name be transferred to the First Complainant.

B. Respondent

The Respondent contends that in China users cannot browse just any website that they please. He denies that he knows the Complainants and submits that he has no contact with them. The disputed domain name has only been registered for a few months. If the Complainants really believe it is so important, why did they not register it? They just waited for someone else to register the disputed domain name before filing a complaint. This is hooliganism on the Internet and the Respondent refuses to reply to the Complaint.

6. Discussion and Findings

6.1 Procedural Issues

A. Multiple Complainants

The Complaint was filed by two complainants. Both Complainants form part of the same corporate group; the Second Complainant is a wholly-owned subsidiary of the First Complainant. Further, the First Complainant owns a META QUEST trademark while the Second Complainant uses it to market Meta Quest virtual reality headsets. Each of the Complainants also owns a relevant trademark registration. Accordingly, the Panel finds that the Complainants have a common grievance against the disputed domain name registrant and that it is efficient to permit the consolidation of their Complaints. Therefore, the Complainants are referred to below collectively as "the Complainant" except as otherwise indicated.

B. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. 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 and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for the following reasons: the disputed domain name is composed of English terms; the webpages to which the disputed domain name previously resolved and where it has been listed for sale are in English; and it would be disproportionate to require the Complainant to submit the present Complaint in Chinese as it would cause the Complainant to incur substantial additional costs, and would cause unwarranted delay.

The Respondent sent two informal email communications in Chinese. He requested that the language of the proceeding be Chinese.

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.

The Panel notes that despite the Center sending the Respondent the notification of the Complaint in both Chinese and English, he expressly refused to reply to it. In these circumstances, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an unwarranted burden and undue delay whereas accepting the Complaint in English will not cause unfairness to the Respondent.

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. The Panel will accept the Respondent's informal communications in Chinese, without a translation.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

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

The burden of proof of each element is borne by the Complainant.

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 disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of each of the META, QUEST, and META QUEST trademarks for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the META, QUEST, and META QUEST marks are reproduced within the disputed domain name. Despite the addition of the word "ultra" (and "quest" or "meta"), each mark remains clearly recognizable within the disputed domain name. As a standard requirement of domain name registration, the generic Top-Level Domain extension may be disregarded in the assessment of confusing similarity. Accordingly, the Panel finds the disputed domain name is confusingly similar to the Complainant's META, QUEST, and META QUEST marks. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.

For the above reasons, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name is offered for sale on a webpage on a domain name broker's website for USD 38,000. The disputed domain name formerly resolved to that webpage but is now passively held. In the Panel's view, neither use constitutes a use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor is it a legitimate noncommercial or fair use. According to the Registrar's verification email, the Respondent's name is "林建", which may be transliterated as "lin jian". This name does not resemble the disputed domain name. Nothing in the record indicates that the Respondent has been commonly known by the disputed domain name.

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 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.

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

C. Registered and Used in Bad Faith

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 first circumstance is as follows:

"(i) circumstances indicating that [the respondent has] registered or [the respondent 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 respondent's] documented out-of-pocket costs directly related to the [disputed] domain name;"

The disputed domain name was registered in 2023, after the registration of the Complainant's META, QUEST, and META QUEST marks including, as regards the META mark, in China, where the Respondent is based. The META QUEST mark is a combination of a prefix ("meta") and an English word ("quest") but it appears to have no meaning besides as a reference to the Complainant's virtual reality product line. According to evidence presented by the Complainant, all the top results for "Meta Quest" in the Baidu Internet search engine are for the Complainant's META QUEST products. The disputed domain name wholly incorporates the META QUEST mark, adding only the word "ultra", which does not appear coincidental. Although he denies knowing the Complainant, the Respondent offers no explanation for his choice to register the disputed domain name. In view of these circumstances, the Panel has reason to find that the Respondent had the Complainant's META QUEST mark in mind at that time when he registered the disputed domain name. This conclusion is confirmed by the fact that the Respondent has previously registered another domain name that, like the disputed domain name, wholly incorporates a third party technology-related mark followed by another word (*i.e.*, <tiktokgo.com>). In view of this conclusion, it is unnecessary to consider the Complainant's other marks further.

As regards use, the disputed domain name has been used solely to offer it for sale. In the Panel's view, the asking price to buy now (USD 38,000) is high enough to imply an awareness of its value to the Complainant. Given that the disputed domain name has only ever resolved to a webpage offering it for sale, the asking price appears to exceed the Respondent's out-of-pocket cost directly related to the disputed domain name.

Accordingly, the Panel finds that the circumstances of this case fall within the terms of paragraph 4(b)(i) of the Policy and that the Respondent has registered and is using the disputed domain name in bad faith. The Panel takes note that the use of the disputed domain name partly changed before the amended Complaint was filed. However, the fact that the disputed domain name is now passively held does not alter the Panel's conclusion because it remains offered for sale at the same price and location as before.

For the above reasons, the Panel finds the third element of the Policy has been established.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Policy provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. See [WIPO Overview 3.0](#), section 4.16.

The Respondent alleges, in effect, that the Complaint was brought in bad faith because the Complainant did not register the disputed domain name itself and waited for someone else to register it before filing a complaint.

The Panel does not consider that the Complaint was brought in bad faith. The Panel has upheld the Complaint. Further, a trademark owner is under no obligation to register every possible domain name that incorporates its mark and its failure to do so does not constitute a waiver of its rights under 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 <metaquestultra.com> be transferred to the First Complainant, Meta Platforms, Inc.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: January 25, 2024