

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. and WhatsApp, LLC v. LinYanXiao and lin yanxiao
Case No. D2024-0180

1. The Parties

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

The Respondents are LinYanXiao and lin yanxiao, China.

2. The Domain Names and Registrars

The disputed domain names <facebokook.com>, <fbfacebook.com>, and <whatsapponline.com> are registered with 22net, Inc.

The disputed domain name <accountsmeta.com> is registered with DropCatch.com 1395 LLC.

The disputed domain name <faeacebook.com> is registered with DropCatch.com 837 LLC.

(22net, Inc., DropCatch.com 1395 LLC, and DropCatch.com 837 LLC are hereinafter referred to as the “Registrar”.)

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2024. On January 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 18, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondents are listed as the registrants and providing the contact details.

The Center sent an email communication to the Complainants on January 19, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainants to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainants filed an amended Complaint in English on January 23, 2024.

On January 19, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreements for the disputed domain names <facebokook.com>, <fbfacebook.com>, and <whatsapponline.com> is Chinese. On January 19, 2024, the Complainants confirmed their request English to be the language of the proceeding. The Respondents 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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on January 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 15, 2024.

The Center appointed Jonathan Agmon as the sole panelist in this matter on February 26, 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 Complainants are Meta Platforms, Inc. and WhatsApp, LLC.

Meta Platforms, Inc. (hereafter referred as "MPI") is a U.S. social technology company, and operates, inter alia, Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp. MPI's focus is to bring the metaverse to life and to help people connect, find communities, and grow businesses. WhatsApp, LLC (hereafter referred as "WhatsApp"), is a wholly-owned subsidiary of MPI. The WhatsApp platform allows users across the globe to exchange messages for free via smartphones.

The Complainants produced evidence showing that MPI and/or WhatsApp are the registered owners of numerous trademarks containing the terms "meta", "fb", "facebook", and "whatsapp" in many jurisdictions around the world, including the following:

- United States Trademark Registration No. 5548121 for META, registered on August 28, 2018;
- Chinese Trademark Registration No. 58212085 for META, registered on January 28, 2022;
- Chinese Trademark Registration No. 5251162 for FACEBOOK, registered on September 21, 2009;
- European Union Trade Mark No. 008981383 for FB, registered on August 23, 2011;
- Mexican Trademark Registration No. 1254929 for FB, registered on November 30, 2011;
- International trademark Registration No. 1085539 for WHATSAPP, registered on May 24, 2011; and
- United States Trademark Registration No. 3939463 for WHATSAPP, registered on April 5, 2011.

MPI uses and operates its main domain name <facebook.com>.

WhatsApp uses and operates its main domain name <whatsapp.com>.

The details of the disputed domain names are as follows:

- <accountsmeta.com>, registered on February 5, 2023;
- <facebokook.com>, registered on February 22, 2014;
- <faeacebook.com>, registered on July 9, 2022;
- <fbfacebook.com>, registered on July 27, 2014; and
- <whatsapponline.com>, registered on July 9, 2013.

According to the evidence provided by the Complainant, the disputed domain names <accountsmeta.com> and <whatsapponline.com> resolve to parking pages containing Pay-Per-Click (“PPC”) links. In addition, they also contain a link to a Dan.com webpage, where the respective disputed domain names are being listed for sale.

The disputed domain name <fbfacebook.com> resolves to a webpage containing PPC links and also contains a link, which purports to resolve to a Dan.com website where it can be bought.

The disputed domain names <facebokook.com> and <faeebook.com> purport to contain dynamic redirection and resolve to a range of webpages. Some of these webpages contain PPC links and various advertisements. These two disputed domain names are also listed for sale on Dan.com.

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 names.

Notably, the Complainants contend that:

- 1) the disputed domain names are confusingly similar to the Complainants’ trademarks in which the Complainants have rights. The disputed domain names incorporate the META, FB, FACEBOOK, and WHATSAPP trademarks. The disputed domain names <accountsmeta.com> and <whatsapponline.com> incorporate the Complainants’ trademarks in their entirety, with the addition of the descriptive terms “accounts” or “online”. The disputed domain name <fbfacebook.com> incorporates both the Complainants’ FB and FACEBOOK trademarks. The disputed domain names <facebokook.com> and <faeebook.com> consist of typosquatted versions of the Complainants’ FACEBOOK trademark.
- 2) the Respondents have no rights or legitimate interests in the disputed domain names. There is no evidence to suggest that the Respondents are commonly known by the disputed domain names. The Respondents are not using the disputed domain names in connection with any bona fide offering of goods or services. The Respondents are not licensees of the Complainants nor affiliated with the Complainants in any way. The Complainants have not granted any authorization for the Respondents to make use of any of their trademarks, in a domain name or otherwise. Three of the disputed domain names resolve to parking pages containing PPC links, while two of the disputed domain names dynamically resolve to various webpages containing advertisements. Four of the disputed domain names are listed for sale on Dan.com. Such use of the disputed domain names clearly indicates the Respondents intent to profit from the goodwill and reputation associated with the Complainants’ trademarks, which cannot amount to bona fide use within the meaning of paragraph 4(c)(i) the Policy.
- 3) The disputed domain names were registered and are being used in bad faith. The disputed domain names were clearly registered in an attempt to target the Complainants’ trademarks. The combination of the Complainants’ trademarks are highly distinctive and exclusively associated with their services. Although the Complainants’ products and services are currently not accessible in China, the Chinese public is familiar with the Complainants’ FACEBOOK and WHATSAPP trademarks as they have been featured in numerous Chinese press articles, including from the state media, People’s Daily. The Respondent(s) is also acutely aware of the Complainants’ trademarks, as he is a “frequent flyer” subject of many past UDRP proceedings. This demonstrates the Respondents’ intent to target the Complainants and their business at the time of registration. The fact that at least three of the disputed domain names resolve to parking pages that contain PPC links is indicative of bad faith. Further, the fact that at least two of the disputed domain names dynamically resolve to webpages containing

advertisements is also indicative of the Respondents' bad faith. The Respondents' failure to respond to the Complainants' cease and desist letter is also indicative of bad faith.

B. Respondents

The Respondents did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Preliminary Issues

A. Consolidation of Multiple Complainants

The Complaint was filed by two Complainants against two Respondents.

The Complainants submitted that neither the Policy nor the Rules expressly provides for or prohibits the consolidation of multiple complainants. Section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), states that: "[i]n assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

Both Complainants form part of the same corporate group. WhatsApp is a wholly-owned subsidiary of MPI. MPI is the registered owner of the above-mentioned META, FACEBOOK, and FB trademarks, while WhatsApp is the registered owner of the above-mentioned WHATSAPP trademarks.

The Panel finds that the Complainants have a common grievance against the Respondents as they have a common legal interest in the trademarks on which this Complaint is based, and it is equitable and procedurally efficient to permit the consolidation of Complainants in this matter given the circumstances of the case. The Complainants are hereinafter referred to below as "the Complainant".

B. Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, Panels consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that despite the different email and postal addresses, the names, telephone numbers, countries of origin, provinces, cities, postal codes of both registrants are identical. Having considered all the relevant facts, the Panel is of the opinion that both registrants are one and the same person. Accordingly, consolidation of the disputes would not be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

C. Language of the Proceeding

The language of the Registration Agreement for three of the disputed domain names 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 was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- (i) the five disputed domain names consist of Latin characters rather than Chinese characters, and two of the disputed domain names incorporate the English terms “accounts” and “online”;
- (ii) the Respondent has a history of registering other domain names that contain well-known trademarks in the English language, which have been the subject of past UDRP proceedings;
- (iii) all the disputed domain names resolve to webpages in the English language; and
- (iv) the Complainant’s businesses operate primarily in English, and requiring the Complaint to be translated into Chinese would result in the proceeding being unduly delayed and the Complainant having to incur substantial expenses for translation.

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 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 Complainant’s trademark and the disputed domain names. [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 disputed domain names <accountsmeta.com> and <whatsapponline.com> incorporate the Complainant’s respective trademarks in their entirety, with the addition of the terms “accounts” or “online”.

The disputed domain name <fbfacebook.com> incorporates both FB and FACEBOOK trademarks.

The entirety of the respective mark is reproduced within these three disputed domain names. Accordingly, these three disputed domain names are confusingly similar to the respective mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “accounts” or “online”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between these three disputed domain names and the respective mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.8.

The disputed domain names <facebokook.com> and <faeacebook.com> consist of typosquatted versions of the FACEBOOK trademark.

The Panel finds the mark is recognizable within these two disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.7.

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 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 Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

The Complainant’s registration of its respective trademarks predates the registration of the disputed domain names. The disputed domain names resolve to either parking pages containing PPC links, or dynamically resolve to various websites containing advertisements or displaying security notifications or websites purporting to offer downloads of browser extensions. Four of the disputed domain names are also listed for sale on Dan.com. There is no objective evidence showing that the Respondent is using or has made any preparations to use the disputed domain names in connection with a bona fide offering of goods or services or for a legitimate noncommercial or fair use purpose.

The Panel also finds that the use of the Complainant’s trademarks, META, FB, FACEBOOK, and WHATSAPP, in their entirety carries a risk that some of the disputed domain names would be perceived by Internet users to be affiliated with the legitimate holder of the trademarks, i.e., the Complainant. See [WIPO Overview 3.0](#), section 2.5.1. It has been held by prior UDRP panels that where a domain name consists of a trademark, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The Respondent’s choice of well-known trademarks associated with the Complainant shows a clear intent to mislead unsuspecting Internet users expecting to find the Complainant and instead are redirected to websites containing PPC links or advertisements, reinforcing the notion that the Respondent’s intent was and is commercial gain.

There is no evidence to suggest that the Respondent is commonly known by any of the disputed domain names.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain names long after the Complainant registered the META, FB, FACEBOOK, and/or WHATSAPP trademarks. Given the reputation of the Complainant's marks and their good will, it is highly unlikely that the Respondent did not know of the Complainant and its trademarks prior to the registration of the disputed domain names. The fact that disputed domain names resolved to either parking pages containing PPC links, or dynamically resolved to websites containing advertisements and/ or links of presumably malicious and/or nefarious nature is strongly indicative of the Respondent's bad faith.

Further, the fact that the Respondent listed four of the disputed domain names for sale on Dan.com is strong evidence of bad faith under paragraph 4(b)(i) of the Policy.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel also draws an adverse inference from the Respondent's failure to file any Response, to respond to the Complainant's cease and desist letter dated October 24, 2023, or to rebut the Complainant's assertions.

The Complainant has provided evidence showing that the disputed domain names <facebokook.com> and <faeacebook.com> are subject to dynamic redirection, resolving to a range of websites purporting to offer downloads of browser extensions, or displaying security notifications and argued that these are likely undertaken in the furtherance of phishing schemes or malware dissemination. Panels have held that the use of a domain name for phishing schemes, or distributing malware, may constitute bad faith. [WIPO Overview 3.0](#), section 3.4. The Respondent did not submit a response and did not rebut the Complainant's assertions that the disputed domain names <facebokook.com> and <faeacebook.com> could be used for phishing schemes and for distributing of malware.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Based on the available record, 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 names <facebokook.com>, <fbfacebook.com>, <whatsapponline.com>, <accountsmeta.com>, and <faeacebook.com> be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: March 11, 2023