

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Birol Koc, Wolfram Pacific Pty Ltd
Case No. D2024-0977

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 Birol Koc, Wolfram Pacific Pty Ltd, Australia.

2. The Domain Name and Registrar

The disputed domain name <facebookstores.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 5, 2024. On March 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. The Response was filed with the Center on April 1, 2024.

The Center appointed Edoardo Fano as the sole panelist in this matter on April 22, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Meta Platforms, Inc., a United States company operating the Facebook social network website and mobile application and owning several trademark registrations for FACEBOOK, among which the following:

- United States Trademark No. 3,122,052 for FACEBOOK, registered on July 25, 2006;
- International Trademark No. 1280043 for FACEBOOK, registered on December 23, 2014;
- European Union Trademark No. 004535381 for FACEBOOK, registered on June 22, 2011;
- Australian Trademark No. 1100642 for FACEBOOK, registered on February 23, 2006.

The Complainant operates on the Internet at the main website “www.facebook.com”, as well as with many other generic Top-Level Domains (“gTLDs”) and country code Top-Level Domains (“ccTLDs”) consisting of or including the trademark FACEBOOK.

The Complainant offers a feature known as “Facebook Stores”, allowing businesses operating from different locations to create individual Facebook pages for each of their physical stores to provide their local details to their customers.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on October 11, 2023, and it resolves to an inactive webpage.

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 states that the disputed domain name is confusingly similar to its trademark FACEBOOK.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use the trademark within the disputed domain name, it is not commonly known by the disputed domain name, and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolves to an inactive webpage.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant’s trademark FACEBOOK is distinctive and internationally known. Therefore, the Respondent targeted the Complainant’s trademark at the time of registration of the disputed domain name and the Complainant contends that the passive holding of the disputed domain name qualifies as bad faith registration and use.

B. Respondent

In its Response to the Complainant's contentions, the Respondent is stating the following:

"Hello :) We acknowledge the complaint regarding the domain name "Facebookstores.com.". We also confirm that the domain name "FaceBookStores.com" is owned by Wolfram Pacific Pty Ltd, a recently incorporated company based in Melbourne Australia. Our motto is "Power To The People". We are a new company, but have invested heavily into Research & Development, Custom Software, Staff, and Advertising. The core focus of our business is strongly concentrated in the eCommerce and Product-Dropship sector. We are excited about the launch of our flagship sites and stores, of which FaceBookStores.com will be a pivotal part within the next 2 months."

The Respondent also claims to own other domain names as flagship sites.

The Respondent further notes: "The domain "FaceBookStores.com" was chosen to reflect the nature of one of our core services, which involves estimating the value of online stores for would-be buyers and sellers of online stores. We have invested in the domain "estimator.biz" prior to purchasing FaceBookStores.com, to enhance the accuracy of our evaluations, which remains our primary focus for the success of our platform and, for the FaceBookStores.com brand to be. Our Online-Store Marketplace platform, FaceBookStores.com, is focused on providing evaluations of online stores using proprietary algorithms. While the term "Facebook" is included in the domain, it is used in conjunction with "stores," clearly indicating a distinction from the social media platform. It's crucial to highlight that the terms "face" and "book" in our domain name carry meanings relevant to our business purpose rather than referencing Facebook, the social media site. In the context of our platform, "face" represents the initial or apparent value of an online store, while "book" signifies its recorded or assessed value. The term "face value" refers to the nominal value of an asset or security, often the price at which it is initially assessed or sold. On the other hand, "book value" pertains to the recorded value of an asset on a company's balance sheet, typically calculated by subtracting liabilities from assets. These concepts are fundamental to our evaluation process, as we aim to provide insights into both the perceived and documented value of online stores. The founder (Birol Koc) sees FaceBookStores.com, along with all of our developments as much needed tools for the masses. We are customercentric oriented and have a vision to empower people around the world, and hence diminish the equity gap that seems to be getting worse by the day. While we respect intellectual property rights, we believe our use of the term "Facebook" in our domain does not infringe upon Facebook's trademarks, as it is used in a distinct context unrelated to social media. However, we are open to addressing any concerns and cooperating with Facebook to resolve this matter amicably."

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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.

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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

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

Although the addition of other terms, here “stores”, 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a gTLD, in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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 present 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 in its Response 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 Panel notes that the disputed domain name resolves to an inactive webpage. The Respondent states that the disputed domain name will be used in connection with a new business for “estimating the value of online stores for would-be buyers and sellers of online stores.” However, this claim is unsubstantiated by the Respondent, not providing any evidence concerning the existence of this project.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation, taking into account the Complainant’s “Facebook Stores” feature. [WIPO Overview 3.0](#), section 2.5.1.

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.

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.

In the present case, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s trademark FACEBOOK in the social networks field is clearly established and the Panel finds

that the Respondent likely knew of the Complainant and its trademark and deliberately registered the disputed domain name in bad faith, especially considering the Complainant's "Facebook Stores" feature. The Panel deems not plausible the Respondent's explanation in relation to the registration of the disputed domain name for a new business, in which "face" would represent the initial or apparent value of an online store, while "book" would signify its recorded or assessed value.

As regards the fact that the disputed domain name is inactive, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. While 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name and the Respondent's failure to provide any evidence of actual or contemplated good-faith use, and finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Moreover, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the Complainant's trademark in its entirety with the mere addition of the term "stores" (corresponding to the Complainant's "Facebook Stores" feature), further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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 disputed domain name, <facebookstores.com>, be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: May 3, 2024