

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Host Master, 1337 Services LLC  
Case No. D2024-1325

### **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 Host Master, 1337 Services LLC, Saint Kitts and Nevis.

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

The disputed domain names <fbdownload.info>, and <fbloaders.com> are registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 1, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2024, 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 April 5, 2024.

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 April 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on May 28, 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**

##### **A. Complainant**

The Complainant is a company incorporated in the United States, which operates, inter alia, Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp.

Founded in 2004, the Complainant's Facebook platform, commonly referred to as "FB", is a leading provider of online social-media and social-networking services. 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, Facebook is also available for mobile devices, and in recent years has consistently ranked amongst the top "apps" in the market. In 2023, the FACEBOOK brand ranked 21st in Interbrand's Best Global Brands report. As of June 30, 2023, i.e., shortly before the registration of the disputed domain names, Facebook had approximately 3.03 billion monthly active users and 2.06 billion daily active users on average worldwide.

The Complainant is the owner of numerous FACEBOOK and FB trademarks worldwide, including:

- the United States Trademark Registration No. 4659777, FB, registered on December 23, 2014;
- the European Union Trademark Registration No. 008981383, FB, registered on August 23, 2011, and
- the International Trademark Registration No. 1075807, FACEBOOK, registered on July 16, 2010.

The Complainant is the owner of numerous domain names consisting of the Complainant's FACEBOOK and FB trademarks, for instance, <facebook.com>, <fb.com>, <fb.co>, <facebook.org>, <facebook.us>, <facebook.eu>, <fb.fr>, <facebook.fr>, and <fb.co.uk> to name a few.

##### **B. Respondent**

The Respondent is Host Master, 1337 Services LLC based in Saint Kitts and Nevis, which provides a domain proxy service called Njalla.

The disputed domain names were registered by the Respondent on August 9, 2023, and resolve to websites that purport to offer free tools to download content from the Complainant's Facebook platform, as well as from third-party platforms including TikTok and YouTube.

The website to which the disputed domain name <fbdownload.info> resolves is titled "Facebook Link Downloader| Download FB Videos in Seconds" and purports to offer a free tool to download video content from the Complainant's Facebook platform.

The website to which the disputed domain name <fbloaders.com> resolves is titled "Best Facebook Stories Downloader: Free & Reliable" and purports to offer a free tool to download stories from the Complainant's Facebook platform, as well as featuring links to web pages that purport to offer free tools to download Facebook videos and reels respectively.

## **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 names.

Notably, the Complainant contends as follows:

(1) The disputed domain names are confusingly similar to the Complainant's FB trademark. The addition of the descriptive terms "download" and "loaders" does not prevent a finding of confusing similarity with the Complainant's FB trademark, which remains clearly recognizable as the leading element in both disputed domain names. The generic Top-Level Domains ("gTLDs") ".com" and ".info" may also be disregarded for purposes of assessing confusing similarity, as they are viewed as standard registration requirements.

(2) The Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is neither affiliated with nor has been licensed or permitted to use the FB trademark or any domain names incorporating the FB trademark. Besides, the Respondent is not commonly known by the disputed domain names. The Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names.

(3) The Respondent registered and is using the disputed domain names in bad faith. The Respondent registered the disputed domain names without authorization to make use of the Complainant's trademarks, but with a view to pointing the disputed domain names to websites that purport to provide tools for the unauthorised downloading of Facebook content, in bad faith. The Respondent's prior knowledge of the Complainant and its trademark rights as well as the Respondent's intent to target the Complainant when registering the disputed domain names may be inferred from the content of the Respondent's websites, which offer tools for the illegitimate downloading of Facebook content, make explicit reference to the Complainant's Facebook platforms, and feature a blue and white colour scheme that is very similar to that of the Complainant's Facebook platform.

The Complainant requests transfer of the disputed domain names in order to protect its rights and legitimate business interests, and to protect Internet users from harm.

### **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, in a UDRP complaint, complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint. The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

### **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 3.0](#), section 1.7.

The Complainant has demonstrated ownership of its FB trademarks in multiple jurisdictions. [WIPO Overview 3.0](#), section 1.2.1. Therefore, the Panel is satisfied that the Complainant has trademark rights in the FB mark.

Furthermore, the Panel is of the view that FB trademark is immediately recognizable in the disputed domain names and that the addition of other elements (i.e., terms “download” and “loaders”) does not prevent a finding of confusing similarity. Prior panels have found similarly-constructed domain names to be confusingly similar to the trademark at issue. [WIPO Overview 3.0](#), section 1.8.

The addition of the gTLDs “.com” and “.info” shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that 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 Complainant’s 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 Panel finds that the Respondent is not a licensee of the Complainant and not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its FB trademarks, in a domain name or otherwise.

There is no evidence that the Respondent has ever used, or had made demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services.

The websites to which the disputed domain names resolve purport to offer free tools that enable Internet users to download content from the Complainant's Facebook platform, as well as content from third-party platforms including TikTok and YouTube.

Prior panels have recognized that service providers using a domain name that contains a third-party trademark may be making a bona fide offering of goods or services and thus have a legitimate interest in such domain name. Whether or not this is the case is typically measured against the list of factors set out in *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (the *Ok! Data criteria*; see [WIPO Overview 3.0](#), section 2.8):

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

As a preliminary matter, the Panel is of the opinion that the Respondent is unable to be viewed as a bona fide service provider as it does not provide sales or repairs in relation to a product provided by the Complainant. Rather, the Respondent is making unauthorised use of the Complainant's FB trademark to market its own ancillary services, namely purporting to provide tools that enable Internet users to download content from Facebook and third-party social-media platforms. Nevertheless, even if one is to apply the *Ok! Data* criteria, the Panel considers that the Respondent does not satisfy the *Ok! Data* criteria, as follows:

- (i) The Respondent is not a bona fide service provider as it is not providing services for the proper use of the Complainant's product. Rather, the Respondent's websites purport to provide unauthorised Facebook downloader tools.
- (ii) Given that the Respondent's website also purports to provide tools to download content from third-party platforms such as TikTok and YouTube, the Respondent cannot be said to be using the disputed domain names solely in connection with goods and services offered under the FB trademark comprised in the disputed domain names.
- (iii) Although the Respondent's websites state "WE DO NOT ALLOW/SUPPORT THE DOWNLOAD OF COPYRIGHTED MATERIAL!", such wording neither accurately nor prominently discloses the Respondent's lack of relationship with the Complainant. In fact, by making numerous references to the Complainant's Facebook platform and using a blue and white colour scheme very similar to that of the Complainant's Facebook platform as detailed above, the Respondent's websites suggest that the Respondent is affiliated with the Complainant, which is not the case.
- (iv) Although the registration of disputed domain names comprising the Complainant's FB trademark is unlikely to constitute an attempt to "corner the market", the registration of not one but two disputed domain names is evidence that the Panel takes into account; see *Philip Morris Products S.A. v. Withheld for Privacy ehf / Xinke Liu*, WIPO Case No. [D2021-3733](#).

Therefore, based on above, the Panel considers that the Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

There is also no evidence to suggest that the Respondent is commonly known by the disputed domain names. The Respondent's name bears no resemblance to the Complainant's FB trademarks. Nor is the Respondent currently making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers within the meaning of paragraph 4(c)(iii) of the Policy. According to the Panel, the nature of the disputed domain names themselves is such that they carry a risk of implied affiliation with the Complainant, and therefore cannot give rise to a claim of legitimate noncommercial or fair use.

The Respondent has failed to demonstrate any of the non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain names.

Noting the above, 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 Complainant's FACEBOOK and FB trademarks are highly distinctive and famous throughout the world. (All leading Google search results for "FB" and "FACEBOOK" refer to the Complainant.) The disputed domain names comprise the Complainant's FB trademark, followed by the terms "download" and "loaders", under the gTLDs ".com" and ".info".

Having considered the above-listed facts, noting that the Complainant's FB trademark predates the registration of the disputed domain names and the fact that the contents of the Respondent's website makes explicit references to the Complainant's Facebook and FB, it is inconceivable that the Respondent could have registered the disputed domain names without knowledge of the Complainant's well-known trademarks. In the circumstances of this case, this is evidence of registration in bad faith.

The Panel also finds that the Respondent registered the disputed domain names, without authorization to make use of the Complainant's trademarks, with a view to pointing the disputed domain names to websites that purport to provide tools for the unauthorised downloading of Facebook content, in bad faith.

Moreover, in the circumstances of the present case, the Panel considers that the use of privacy services to register the disputed domain names constitutes further evidence of bad faith; see [WIPO Overview 3.0](#), section 3.6.

Moreover, in light of the nature of the disputed domain names, described above, as well as the use of a blue and white colour scheme that is very similar to the blue and white colour scheme of the Complainant's Facebook platform as detailed above, the Complainant submits that the Respondent is seeking to target the Complainant's trademark to create an impression of association with the Complainant, to divert traffic to the disputed domain names and to offer unauthorised, illegitimate tools to Internet users and disrupt the Complainant's business.

In light of these particular circumstances, 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, <fbdownload.info> and <fbloaders.com> be transferred to the Complainant.

*/Ganna Prokhorova/*  
**Ganna Prokhorova**  
Sole Panelist  
Date: June 10, 2024