

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Batyi Bela
Case No. D2024-2017

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 Batyi Bela, Bahamas (the).

2. The Domain Name and Registrar

The disputed domain name <fbvideodownloads.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2024. On May 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 May 22, 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 May 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2024.

The Respondent sent email communications to the Center on May 28, 2024 stating: “Welcome! I am giving up the domain name: fbvideodownloads.com Please delete it! Thanks. Regards” and “Welcome!

Unfortunately I do not speak English! The domain can be yours, I give it up. Please don't send a pdf, because I can't translate it! B.”

The Complainant sent an email communication to the Center and the Respondent on May 31, 2024, requesting the Center to continue with the procedure because the Respondent failed to respond to its previous offer to settle and has therefore incurred the costs of the filing of the Complaint.

Pursuant to paragraph 6 of the Rules, on June 18, 2024, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Zoltán Takács as the sole panelist in this matter on June 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

The Complainant, formerly named Facebook, Inc. is an American multinational technology conglomerate based in Menlo Park, California, United States.

The company among other products and services owns Facebook, a social networking site that enables users to connect and share with other people online. Since its launch in 2004, Facebook achieved considerable renown and goodwill worldwide, with 1 billion active users by September 2012.

The Complainant is owner of numerous trademark registrations consisting of or including the FACEBOOK and FB marks, for example:

- European Union Trademark Registration (“EUTM”) No. 004535381 FACEBOOK registered since June 22, 2011, for various services related to social networking;
- EUTM No. 008981383 FB registered since August 23, 2011, for social networking services.

According to renowned international publications The New York Times and The Guardian the FB mark has been commonly used to refer to Facebook since as early as 2011 and 2013 respectively.

The Complainant is also owner of a number of domain name registrations which comprise of or include the FACEBOOK and FB marks, e.g. the domain name registration <fb.com> registered since May 22, 1990.

The disputed domain name was registered on November 24, 2017, and used to resolve to a website which made prominent references to the Complainant’s FACEBOOK and FB marks and a variation of the Complainant’s signature figurative trademark and purported to offer a free tool to download videos, including private videos from Facebook.

Currently the disputed domain name resolves to a Hungarian language webpage where it is being offered for sale generally. The visitors of the webpage are invited to contact the Respondent to inquire about the purchase of the disputed domain name.

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 contends that the Respondent has registered and is using the disputed domain name in bad faith since:

- the disputed domain name which fully incorporates its FB trademark is confusingly similar to it and the addition of the terms “video” and “downloads” to the mark in the disputed domain name does not prevent a finding of confusing similarity;
- the Respondent is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy hence it has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name that includes its reputed trademark to falsely suggest that the Respondent is in some way related to the Complainant;
- the Respondent has been named as the respondent in previous domain name proceedings resulting in transfer of the domain names;
- the Respondent’s provision of a tool for unauthorized download of content from the Complainant’s Facebook platform violates the Complainant’s own Terms of Service and may have placed the privacy and security of users of the Facebook platform at risk.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

The Respondent sent the above-mentioned informal email communications to the Center but did not file a formal response and contested the Complainant’s contentions.

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the 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 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 FB mark is reproduced and is recognizable 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 “video” and “downloads” 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 the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel 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 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.

The Respondent is not affiliated with the Complainant in any way and has never been authorized by the Complainant to register and use a domain name incorporating its FB trademark.

The disputed domain name consists of the Complainant’s FB trademark along with the descriptive terms “video” and “downloads” and has resolved to a website that prominently displayed the Complainant’s FACEBOOK and FB marks as well as the Complainant’s signature figurative trademark, and yet the website failed to include any identifying information as to the relation or lack thereof to the Complainant reinforcing the false impression that the disputed domain name is in some way associated with the Complainant. Therefore, the Panel considers that there is a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Moreover, the Respondent’s use of the disputed domain name in connection with a website that allowed anyone to download videos from the Complainant’s website appear to be in violation of the Complainant’s Terms of Service and cannot confer rights or legitimate interests of the Respondent.

In the context of the surrounding circumstances mentioned above the Respondent’s attempt to sell the disputed domain name also demonstrates the Respondent’s lack of rights or legitimate interests in the dispute domain name.

The Panel finds that 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 unique to the Complainant and their priority predates the registration of the disputed domain name.

At the time of registration of the disputed domain name, in 2017, the FACEBOOK mark was already internationally renowned. See e.g. *Facebook Inc. v. Mats Oscarsson*, WIPO Case No. [DEC2015-0001](#).

The Panel also notes that the Respondent has targeted the Complainant and its FACEBOOK and FB marks already before registration of the disputed domain name. On October 20, 2008, the Respondent registered the domain name <fbvideo.com> and used it for a website that featured the Complainant's FACEBOOK and FB marks and allowed Internet users to download videos from the Complainant's website. The panel appointed in *Facebook, Inc. v. Batyi Bela, Whois privacy services, provided by DomainProtect*, WIPO Case No. [D2020-2683](#) found that the Respondent had registered and used the domain name <fbvideo.com> in bad faith and ordered the transfer of the domain name to the Complainant.

These facts, coupled with the content of the Respondent's website as mentioned above make it clear that the Respondent had actual knowledge of the Complainant and its FACEBOOK and FB marks at registration of the disputed domain name and sought to target the Complainant and its marks through the disputed domain name, which is evidence of bad faith. Paragraph 4(b)(iv) of the Policy.

Further, the fact that the Respondent has registered multiple trademark infringing domain names (*Mattel, Inc. v. Batyi Bela*, WIPO Case No. [D2011-1598](#) and *Facebook, Inc. v. Batyi Bela, Whois privacy services, provided by DomainProtect*, WIPO Case No. [D2020-2683](#)) demonstrates the Respondent's pattern of bad faith registration of domain names. Paragraph 4(b)(ii) of the Policy.

As mentioned above currently the disputed domain name resolves to a Hungarian language webpage at which the Respondent invites the visitors of the webpage to contact him and inquire about the purchase of the disputed domain name. In view of the Panel, the Respondent's attempt to sell the disputed domain name comprised of the Complainant's renowned trademark upon being challenged by the Complainant clearly contradicts the Respondent's assertion that he is "giving up the domain name" and is further indicative of the Respondent's bad faith.

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 name <fbvideodownloads.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: July 11, 2024