

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. mohammed shahin
Case No. D2024-2196

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 mohammed shahin, Egypt.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 29, 2024. On May 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 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 June 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 June 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2024. A third Party sent email communications to the Center on June 10 and 11, 2024. The Respondent submitted a Response to the Center on June 20, 2024. Accordingly, the Center notified the Parties about Commencement of Panel Appointment Process on July 3, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on July 17, 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, Meta Platforms, Inc., is a United States social technology company, and operates, inter alia, the Facebook platform.

The Complainant provided evidence of ownership of numerous trademark registrations for FACEBOOK and the FACEBOOK logo (F in a blue circle) in many jurisdictions throughout the world, including but not limited to the following:

- United States Trademark Registration No. 3041791, FACEBOOK, registered on January 10, 2006;
- United States Trademark Registration No. 3122052, FACEBOOK, registered on July 25, 2006;
- International Trademark Registration No. 1075094, Facebook (design), registered on July 16, 2010; and
- United States Trademark Registration No. 5186706, F (design), registered on April 18, 2017.

The disputed domain name was registered on July 5, 2020, and resolves to a website which purports to offer a tool that enables Internet users to download video content from Facebook, including content from private Facebook profiles. In addition, the Respondent's website contains hyperlinks to other tools that purportedly enable Internet users to download video content from Instagram, as well as from third-party platforms. The Respondent's website also displays a copyright notice "© 2022 DownloadFacebook" at the bottom of the page.

On March 18, 2024, and on March 19, 2024, the Complainant sent a cease and desist letter to the Respondent, asserting its trademark rights and requesting the transfer of the disputed domain name to the Complainant. The Respondent did not reply to the Complainant's cease-and-desist letters.

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 since its launch in 2004, the Facebook platform rapidly developed considerable renown and goodwill worldwide, with 1 million active users by the end of 2004, 2.27 billion users as of September 2018 and approximately 3.07 billion monthly active users worldwide at present.

With regard to the requirement of "identity or confusing similarity between the trademark and the domain name" pursuant to paragraph 4(a)(i) of the Policy, the Complainant submits that,

- the presence of its FACEBOOK trademark in the disputed domain name is sufficient to establish confusing similarity;

- the addition of the term “download” does not prevent a finding of confusing similarity with the; Complainant’s FACEBOOK trademark, which remains clearly recognizable in the disputed domain name;
- the generic Top-Level Domain (“TLD”) “.net” shall be disregarded for purposes of assessing confusing similarity, as it is viewed as a standard registration requirement.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that,

- the Respondent is not a licensee of the Complainant and is not affiliated with the Complainant in any way;
- the Complainant has not granted any authorization for the Respondent to make use of its FACEBOOK trademark, in a domain name or otherwise;
- the Respondent is making unauthorized use of the Complainant’s FACEBOOK trademark to market its own ancillary services, namely providing tools that enable Internet users to download private and public content from Facebook as well as content from Instagram and other third-party social-media platforms;
- 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 website purports to provide unauthorized Facebook and Instagram downloader tools, in breach of its Meta Developer Policies;
- the Respondent’s website does not feature a disclaimer and so neither accurately nor prominently discloses the Respondent’s lack of relationship with the Complainant, rather by featuring the Complainant’s Facebook logo as well as the copyright notice “© 2022 DownloadFacebook”;
- the Respondent’s website suggests that the Respondent is affiliated with the Complainant, which is not the case;
- there is no evidence to suggest that the Respondent is commonly known by the disputed domain name, as contemplated by paragraph 4(c)(ii) of the Policy;
- the Respondent is currently not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers within the meaning of paragraph 4(c)(iii) of the Policy.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that,

- the Complainant’s FACEBOOK trademark is highly distinctive and famous throughout the world and has been continuously and extensively used since 2004 in connection with the Complainant’s social network, having rapidly acquired considerable goodwill and reputation worldwide;
- 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 name may also be inferred from the content of the Respondent’s website, which offers online tools for downloading Facebook and Instagram content and makes prominent use of the Complainant’s trademarks;
- the Respondent registered the disputed domain name, without authorization to purport to provide tools to download private and public content from the Complainant’s Facebook platform;
- the Respondent’s use of the disputed domain name circumvents the inability of users to download other users’ Facebook content, which violates its Developer Policies and facilitates breach of the Facebook Terms of Service;
- the Respondent’s use of the Complainant’s logo, including in the favicon, creates a misleading impression of association with the Complainant;
- the lack of disclaimer on the Respondent’s website to clarify the Respondent’s relationship or lack thereof with the Complainant adds to the confusion caused by the disputed domain name and constitutes additional evidence of the Respondent’s bad faith conduct;
- the Respondent’s use of the disputed domain name to offer unauthorized, illegitimate tools to Internet users, disrupts the Complainant’s business.

B. Respondent

The Respondent did not reply to the Complainant's contentions but submitted a Response merely indicating that: "We've stopped the website under the domain name: downloadfacebook.net as per previous request of infringing other brand name copyrights."

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three 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.

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, "download", 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.

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 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 Complainant asserts without contradiction by the Respondent that the Respondent has used the disputed domain name for a website which displays the Complainant's FACEBOOK trademark along with its distinctive logo, and does not contain a disclaimer clarifying the absence of any relationship with the Complainant to market its own ancillary services, namely providing tools that enable Internet users to download private and public content from Facebook as well as content from Instagram and other third-party social-media platforms.

Panels have held that the use of a domain name for illegal activity, here impersonating the Complainant for fraudulent purposes, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel therefore 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 provided evidence of multiple trademark registrations for the FACEBOOK mark that predate the registration of the disputed domain name.

In light of the extensive use of the Complainant's FACEBOOK trademark and the fact that the disputed domain name resolved to a website that apparently attempts to impersonate the Complainant, the Panel has no doubt that the Respondent was aware of the Complainant and the Complainant's trademark rights when registering the disputed domain name.

The Panel therefore concludes that the Respondent registered the disputed 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.

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 name with the bad faith intent to attract Internet users, for commercial gain, by creating a likelihood confusion with the Complainant. Moreover, the website has deceived consumers by using the Complainant's FACEBOOK trademark and distinctive logo to market its own ancillary services, namely providing tools that enable Internet users to download private and public content from Facebook as well as content from Instagram and other third-party social-media platforms.

Panels have held that the use of a domain name for illegal activity, here impersonating the Complainant for fraudulent purposes, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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

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 <downloadfacebook.net> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: August 1, 2024