

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. FB Digital Marketing

Case No. D2024-3318

1. The Parties

The Complainant is Meta Platforms, Inc., United States of America, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is FB Digital Marketing, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <fb livestream.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 13, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 15, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 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 August 20, 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 August 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 23, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on September 30, 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 in this proceeding is Meta Platforms, Inc. (formerly Facebook, Inc.), a United States of America corporation. The Complainant is a technology company, and operates, inter alia, Facebook, Instagram, Meta Quest (formerly Oculus) and WhatsApp. Founded in 2004, the Complainant's Facebook platform ("Facebook") is a leading provider of online social media and social networking services. 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 applications in the market. Facebook had 2.27 billion monthly active users by September 2018 and as of September 30, 2023, i.e., around the time of the registration of the disputed domain name, Facebook had approximately 3.05 billion monthly active users and 2.09 billion daily active users on average worldwide.

The Complainant owns numerous trademark registrations corresponding and/or including the FACEBOOK and FB signs.

The Complainant is, inter alia, the owner of:

- United States of America trademark registration number 3041791, for the FACEBOOK trademark registered on January 10, 2006;
- International trademark registration number 1075807 for the FACEBOOK trademark registered on July 16, 2010;
- European Union Trademark registration number 005585518, for the FACEBOOK trademark registered on May 25, 2011;
- United States of America trademark registration number 4659777, for the FB trademark registered on December 23, 2014;
- European Union Trademark registration number 008981383, for the FB trademark registered on August 23, 2011;
- European Union Trademark registration number 018146501, for the FB trademark registered on November 7, 2020.

In addition, the Complainant is the holder of numerous domain names consisting of or including its FACEBOOK trademark, registered under various generic Top-Level Domains ("gTLDs") as well as under a number of country code Top-Level Domains, including <facebook.com> (registered on March 29, 1997), <facebook.us> (registered on May 5, 2004), <facebook.day> (registered on December 16, 2021), <facebook.net> (registered on April 1, 2004) and <fb.com> (registered on May 22, 1990).

The Complainant has also established a strong social media presence online by being active on various social-media platforms.

The disputed domain name was registered on September 10, 2023.

Currently the disputed domain name is inactive. From submissions provided by the Complainant, it appears that previously (at least on August 13, 2024), the disputed domain name resolved to a website titled "FBLIVESTREAM.COM Live Stream Viewers Main Provider" which purported to offer for sale livestream views on Facebook and Instagram as well as on the third-party platforms TikTok, YouTube and Twitch.

The Respondent's website also featured a login section that prompted Internet users to enter their username and password, and an Application Programming Interface web page and a "contact us" page that featured Skype and Telegram contact details.

The Complainant's representatives, in an attempt to resolve the matter amicably, sent a cease and desist letter to the Respondent via email, and submitted a notice via the Registrar's registrant contact form. Both communications have remained unanswered.

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 addition of the term "livestream" does not prevent a finding of confusing similarity with the Complainant's FB trademark, which remains clearly recognizable in the disputed domain name. In addition, the Complainant affirms that the Respondent's website purports to offer for sale livestream views on Facebook and Instagram, in breach of the Meta Developer Policies. Fake or automated livestream views also interfere with the proper working of the Facebook platform, which breaches the Facebook Terms of Service and facilitates breach of the Facebook Terms of Service by Facebook users.

The Complainant thus claims (also quoting prior UDRP panels) that such use of the disputed domain name does not constitute a bona fide offering of goods or services.

The Complainant also claims that the identity of the underlying registrant, which has been disclosed as "FB DigitalMarketing", does not reflect the personal name of the underlying registrant of the disputed domain name and that the Respondent has not provided any concrete evidence of being commonly known by the disputed domain name or by "FB DigitalMarketing" in a corporate capacity, such as bills/invoices or articles of incorporation. The Complainant also affirms that in any event the name "FB DigitalMarketing" cannot grant the Respondent rights or legitimate interests in the disputed domain name as it was clearly chosen with the aim of causing confusion and taking advantage of the Complainant's trademark rights.

The Complainant also claims that 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 be inferred from the content of the Respondent's website, which purports to offer for sale livestream views on the Complainant's platform and the Instagram platform, and the fact that it makes explicit reference to the Facebook and Instagram platforms.

Finally, the Complainant contends that the unauthorized use of the disputed domain name to offer for sale livestream views on the Facebook and Instagram platforms, in an attempt to attract Internet users to the website by creating a likelihood of confusion with the Complainant's FB trademark, constitutes bad faith under paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights;
- (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, "livestream", 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.

The Respondent's name per the Whois record for the disputed domain name is "FB Digital Marketing", and it is potentially relevant because of paragraph 4(c)(ii) of the Policy. However, for the reasons discussed in relation to bad faith below, it is likely that the Respondent adopted this name and registered the disputed domain name in order to benefit from confusion with the Complainant, which cannot give rise to rights or legitimate interests.

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 was aware of the Complainant's trademark registrations and rights to the FB and FACEBOOK trademarks when it registered the disputed domain name.

The disputed domain name was registered many years after the Complainant's trademarks were registered. In addition, owing to the substantial presence established worldwide and on the Internet by the Complainant, and considering the composition of the disputed domain name, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant, or of the Complainant's trademarks, when registering the disputed domain name.

Prior UDRP panels have repeatedly recognized the strength and renown of the Complainant's FACEBOOK and FB trademarks. In fact, "Facebook" is not a common or descriptive term, but one of the most renowned trademarks in the world.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the FB and FACEBOOK trademarks.

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 content of the Respondent's website, which makes explicit reference to the Complainant's Facebook and Instagram platforms while offering for sale unauthorized live stream views on the Facebook and Instagram platforms, is a clear inference that the Respondent intended to target the Complainant when registering the disputed domain name.

Through the purported services provided on the Respondent's website, Internet users are likely to be misled into believing that the Respondent's website is affiliated or endorsed by the Complainant, which is not the case. As noted by the Complainant, prior UDRP panels have already held that the use of a disputed domain name to attract Internet users who are seeking the Complainant's websites, to offer Instagram "likes" and "followers" for sale, presumably for the commercial gain of the Respondent, falls squarely within the language of paragraph 4(b)(iv) of the Policy. See *Instagram, LLC v. 赵坤 (Zhao Kun)*, WIPO Case No. [D2022-0454](#).

The bad faith registration and use of the disputed domain name are also affirmed by the fact that the Respondent did not respond to the Complainant's cease and desist letter, nor has it denied the assertions of bad faith made by the Complainant in this proceeding.

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 <fb livestream.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: October 10, 2024