

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Vladimir Shubert  
Case No. D2024-3370

### **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 Vladimir Shubert, Ukraine.

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

The disputed domain name <videodownloaderforfb.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 August 16, 2024. On August 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 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 August 19, 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 26, 2024.

The Center verified that the Complaint [together with the amendment to the Complaint/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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 17, 2024. The Respondent sent an email communication to the Center on August 28, 2024 stating: “all was deleted”.

The Center appointed Peter Burgstaller 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, formerly named Facebook, Inc, is a United States corporation with its principal place of business in California, United States. It is a multinational technology conglomerate which owns and operates inter alia Facebook, Instagram, Threads and WhatsApp (Annexes 1, 5, 6, 8 to the Complaint).

The Complainant owns several trademark registrations for the mark FB, inter alia:


- European Union trademark, Registration No.8981383 and 18146501, registered on August 23, 2011 and November 7, 2020;
- United States trademark, Registration No. 4,659,777, registered on December 23, 2014;

The Complainant furthermore owns numerous trademark registrations for FACEBOOK around the world.

The Complainant also owns a European Union figurative trademark registration for  (Annex 12 to the Complaint).

The Complainant and its technology conglomerate owns numerous domain names containing the mark FACEBOOK, inter alia <facebook.com>, registered on March 29, 1997, <facebook.biz>, registered on September 11, 2005, <facebook.us>, registered on May 5, 2004, <facebook.cn>, registered on March 4, 2005, and <facebook.eu>, registered on April 26, 2006, but also containing the mark FB, e.g. <fb.com>, registered on May 22, 1990, <fb.fr> registered on December 18, 2014, or <fb.co.uk>, registered on September 13, 2011 (Annex 10 to the Complaint).

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 (Annex 9 to the Complaint).

The disputed domain name was registered on December 27, 2023 (Annex 2 to the Complaint). At the time of filing this Complaint, the disputed domain name resolved to a website which contained the logo  as well as offered a free tool to download Videos: "Facebook Video Downloader", "Twitter Video Downloader", "Instagram Video Downloader" and "Vimeo Video Downloader" (Annex 13 to the Complaint).

#### **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 "downloader" and "for" 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's provision of a tool for unauthorized download of content from the Complainant's platform violates the Complainant's own Terms of Service and may have placed the privacy and security of users of the platform at risk.

## **B. Respondent**

The Respondent sent the above-mentioned informal email communications from August 28, 2024 to the Center but did not file a formal response and contested the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1 Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine, subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes even if it is unclear whether the courier was able to deliver the written notice to the address which the Respondent had provided in Ukraine, the notice has been delivered to the Respondent's email address provided by the Registrar. The Respondent has not opposed to the continuation of the proceedings and has submitted an informal, so it means that he did receive the notification of complaint via email. The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the Domain Name shall be referred to the jurisdiction of the courts of the location of the concerned registrar, which is the United States.

Moreover, as described below, the Panel has no doubt that the Respondent registered and has used the Domain Name in bad faith to target the Complainant and mislead consumers. The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

### **6.2 Substantial Issues**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (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 with respect to 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 submitted evidence, which incontestably and conclusively establishes rights in the mark FB.

In the present case, the disputed domain name is confusingly similar to the FB mark in which the Complainant has rights since it only adds the descriptive terms “video”, “downloader” and “for” to the mark. It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name the mere addition of a term will not prevent a finding of confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.8; see also *Meta Platforms, Inc v. Batyi Bela*, WIPO Case No. [D2024-2017](#) and *Meta Platforms, Inc v. Stefano Grossi, Grossi Consulting LLC*, WIPO Case No. [D2022-2715](#).

Finally, it has also long been held that generic Top-Level Domains (“gTLDs”) are generally disregarded when evaluating the confusing similarity of a disputed domain name.

Based on the available record, 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.

While 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 often impossible 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. 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 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 Complainant focuses on the fact that its trademarks FB and FACEBOOK are well known, distinctive and registered in various jurisdictions around the world and provides suitable evidence of its reputation, adding that it is inconceivable that the Respondent would not have been aware of this when registering the disputed domain name.

The Complainant also notes that the disputed domain name is not being used for a bona fide offering of goods or services: The disputed domain name consists of the Complainant’s FB trademark along with the descriptive terms “video” and “downloaders” and “for” and resolved to a website that prominently displayed the Complainant’s logo, FACEBOOK and FB marks together with well-known trademarks from competing companies; further, 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 and section 2.8.

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.

The Respondent did not reply to the Complainant’s contentions and hence has not rebutted the Complainant’s prima facie showing.

Based on the available record, the Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

As stated in many decisions rendered under the Policy, both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:



- the disputed domain name was registered by the Respondent in bad faith; and
- the disputed domain name is being used by the Respondent in bad faith.

(a) Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a distinctive and famous trademark by an unaffiliated entity (as it is in the present case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In the present case, the disputed domain name contains the descriptive terms “video”, “downloader” and “for” as suffix to the well-known FB mark, which in fact even strengthens the impression that the Respondent must have known of the Complainant’s mark when registering the disputed domain name.

The Panel is therefore convinced that it is inconceivable that the Respondent has registered the disputed domain name without knowledge of the Complainant’s famous and distinctive trademarks FB or FACEBOOK; this is further supported by the fact that the Complainant has a very strong Internet presence under its FACEBOOK and FB domain names (e.g. <fb.com>, <facebook.com>) and the Complainant has rights in and is intensively using the marks FB and FACEBOOK for many years and long before the registration of the disputed domain name. The Panel is therefore convinced that the disputed domain name was registered with full knowledge of the Complainant’s rights and as such in bad faith by the Respondent.

(b) The disputed domain name resolved to a website which provided a tool to download content from the Complainant’s platform “Facebook Video Downloader” and “Instagram Video Downloader”. In providing such a tool, the Respondent circumvents the inability of users to download other users’ Facebook content. Such unauthorized downloading of content from the platform of the Complainant and its subsidiaries may place the privacy and security of Facebook and Instagram users at risk as the downloaded content can be stored and later used for unauthorized purposes by third parties. As noted by the Complainant, prior UDRP panels have already held that the unauthorized automated downloading of content from social networks amounts to bad faith. *Meta Platforms, Inc. v. Muhammad Shahbaz*, WIPO Case No. [D2024-0288](#).

Furthermore, by using the Complainant’s trademarks together with a very similar logo to those of the Complainant ( v. ) and a very similar blue and white colour scheme to those of the Complainant’s Facebook platform, the Respondent creates an impression of association with the Complainant, to divert traffic to the disputed domain name and to offer an unauthorized, illegitimate tool to Internet users and disrupt the Complainant’s business.

The evidence and documents produced and put forward by the Complainant together with the fact that the Respondent has failed to present any evidence of any good faith registration and use with regard to the disputed domain name further supports the finding of bad faith.

Based on the available record, 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 <videodownloaderforfb.com> be transferred to the Complainant.

*/Peter Burgstaller/*

**Peter Burgstaller**

Sole Panelist

Date: October 11, 2024