

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Sambhunath Lohar, Wavespoints  
Case No. D2024-3512

### **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 Sambhunath Lohar, Wavespoints, India.

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

The disputed domain name <videofacebookdownload.com> is registered with FastDomain, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2024. On August 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 29, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 September 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 September 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2024. The Respondent sent email communications to the Center on September 5, September 15, and September 17, 2024.

The Center appointed Andrew F. Christie as the sole panelist in this matter on October 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 is a United States social technology company, which operates, inter alia, Facebook, Instagram, Meta Quest (formerly Oculus) and WhatsApp. Founded in 2004, the Complainant's Facebook platform is a leading provider of online social-media and social-networking services. Since its launch, Facebook rapidly developed considerable renown and goodwill worldwide, having approximately 3.05 billion monthly active users and 2.09 billion daily active users on average worldwide as of September 30, 2023.

The Complainant has secured ownership of numerous registrations for the word trademark FACEBOOK in many jurisdictions throughout the world, including United States Trademark Registration No. 3041791 (registered on January 10, 2006), International Registration No. 1075807 (registered on July 16, 2010), and European Union Trade Mark No. 005585518 (registered on May 25, 2011).

The disputed domain name was registered on October 25, 2023. The Complainant provided screenshots taken on April 29, 2024, which show that the disputed domain name redirected to a website at "www.videograbr.com". The website was titled "VIDEO GRABR Free All-in-One Media Downloader! Video | Photo | Reels | Short | Story" and purported to offer a tool to enable Internet users to download videos, photos and stories from the Complainant's Facebook platform, as well as a tool to enable Internet users to download content from third-party platforms. As at the date of this Decision, the disputed domain name does not resolve to an active location.

On April 29, 2024, the Complainant's lawyers sent a cease and desist letter by email to the Registrar asking them to forward it to the registrant of the disputed domain name. The Complainant's lawyers followed up with the Registrar on May 7 and 9, 2024, but no response was received. On April 29, 2024, the Complainant's lawyers submitted a cease and desist notice via the contact form on the Respondent's website. No response was received.

#### **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.

The Complainant contends that the disputed domain name is confusingly similar to a trademark in which it has rights on the following grounds, among others. The presence of "facebook" in the disputed domain name is sufficient to establish confusing similarity between the disputed domain name and the Complainant's trademark. The addition of the terms "video" and "download" does not prevent a finding of confusing similarity with the trademark, which remains clearly recognizable in the disputed domain name.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name on the following grounds, among others. The Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the disputed domain name. The Respondent is not a licensee of the Complainant, is not affiliated in any way with the Complainant, and has not been granted any authorization to make use of the FACEBOOK trademark by the Complainant. The Respondent cannot be viewed as a bona fide service provider; instead, it is making unauthorized use of the Complainant's FACEBOOK trademark to market its own ancillary services, namely purporting to provide tools to enable Internet users to download content from

the Complainant's Facebook platform and from third-party platforms. There is no evidence to suggest that the Respondent is commonly known by the disputed domain name, or that the Respondent has acquired or applied for any trademark registrations for "facebook", "videofacebook", "facebookdownload", or any variation thereof, as reflected in the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. It has used the disputed domain name to exploit the goodwill associated with the Complainant's FACEBOOK trademark by creating a false impression of association with the Complainant.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith on the following grounds, among others. The Complainant's FACEBOOK trademark is highly distinctive and famous throughout the world, having been used continuously and extensively since 2004 in connection with the Complainant's social network, and having rapidly acquired considerable goodwill and reputation worldwide. 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, until on or around April 29, 2024, made explicit reference to the Complainant's Facebook platform. Such use of the disputed domain name circumvents the requirement that Facebook users create an account to access the platform as well as the inability of users to download Facebook content, in violation of the Meta Developer Policies and which facilitates breach of the Meta Terms of Service. The Respondent has sought to target the Complainant's trademark to create 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 fact that the disputed domain name no longer resolves to an active web page cannot remedy the Respondent's bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, the Respondent sent three emails to the Center, in which the Respondent: (i) stated that it had "removed the domain name from the domain registrar" and requested the Center to "proceed with the necessary steps accordingly"; and (ii) stated that it had "removed all trademark-related content associated with the domain name videograbr.com" and (iii) requested to be informed "if any further action is required from my side".

## **6. Discussion and Findings**

### **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. It is the owner of numerous trademark registrations for the word trademark FACEBOOK.

The entirety of the Complainant's word trademark is reproduced within the disputed domain name, preceded by the word "video" and succeeded by the word "download". Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of these terms does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The Panel finds that the Complainant's trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7

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.

The Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Also, the evidence establishes that the Respondent has used the disputed domain name to resolve to a website which, by offering a tool to enable Internet users to download videos, photos and stories from the Complainant's Facebook platform, purports to be affiliated with the Complainant. Panels have held that the use of a domain name for illegitimate activity, such as implying a commercial affiliation that does not exist, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having reviewed the available record, the Panel finds that 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 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: (i) the Respondent registered the disputed domain name two decades after the Complainant first used, and nearly two decades after the Complainant first registered, its FACEBOOK trademark; (ii) the disputed domain name incorporates the Complainant's trademark in its entirety, and merely adds the descriptive words “video” and “download”; and (iii) the Respondent has used the disputed domain name to resolve to a website that falsely purports to be affiliated with the Complainant. It is clear the Respondent registered the disputed domain name with knowledge of the Complainant's trademark.

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 evidence shows that the Respondent has used the disputed domain name in an intentional attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the Complainant's trademark. Having reviewed the record, the Panel finds that 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 <videofacebookdownload.com> be transferred to the Complainant.

*/Andrew F. Christie/*

**Andrew F. Christie**

Sole Panelist

Date: October 31, 2024