

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Dave Anothu, Influenceurs LTD
Case No. D2023-0338

1. The Parties

The Complainant is Meta Platforms, Inc., United States of America (“United States”), represented by Tucker Ellis, LLP, United States.

The Respondent is Dave Anothu, Influenceurs LTD, France.

2. The Domain Name and Registrar

The disputed domain name <buy-facebook-likes.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 January 25, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 2023, 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 January 26, 2023 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 February 1, 2023.

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 February 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on March 8, 2023. 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

According to information in the Complaint, the Complainant operates the Facebook social networking website and mobile application, which enables its users to create their own personal profiles and connect with each other on their personal computers and mobile devices. Facebook has more than one billion daily active accounts and over two billion monthly active users from all over the world. Facebook users can interact with posts on Facebook by: selecting the Like Button icon to “like” a post, commenting on a post, or sharing a post. The Complainant also provides “paid likes” for Facebook Pages, which are counted as paid if they occur within certain periods of time.

The Complainant owns many trademark registrations for FACEBOOK, including the United States trademark registration for FACEBOOK, registered under No. 3,122,052 as of July 25, 2006.

In addition to the <facebook.com> domain name, the Complainant owns and operates numerous other domain names consisting of the FACEBOOK trademark, including <facebook.org> and <facebook.net>.

The disputed domain name was registered on October 30, 2018 and it does not resolve to an active website. It was previously used to direct users to a webpage offering a service purporting to sell FACEBOOK likes, followers, “post likes,” and “shares” along with similar services related to other social media platforms.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the disputed domain name incorporates the entirety of the Complainant’s FACEBOOK trademark along with the words “buy,” and “likes”, which does not remove the confusing similarity between the disputed domain name and the trademark, especially as the word “likes” is descriptive of and relevant to the Complainant’s services. The addition of hyphens in the disputed domain name does not prevent a finding of confusing similarity. Moreover, the website at the disputed domain name was offering a commercial service purporting to sell Facebook likes, followers, post likes, and shares, along with similar services for other social platforms, which further evidences that the Respondent is targeting the Complainant’s FACEBOOK trademark.

With respect to the second element, the Complainant argues that it has neither licensed nor authorized the Respondent to use the Complainant’s FACEBOOK trademark, nor does the Respondent have any legal relationship with the Complainant that would entitle the Respondent to use the FACEBOOK trademark. Further, neither the Whois data for the disputed domain name nor the corresponding website formerly available at the disputed domain name supports that the Respondent is known by the disputed domain name. The Respondent has used the disputed domain name to impersonate the Complainant and direct users to a commercial website offering a commercial service purporting to sell FACEBOOK likes, followers, “post likes,” and “shares”— something the Complainant would never authorize, and which is prohibited by the Complainant’s guidelines. Additionally, the disputed domain name is on one or more block lists indicating that it has been used in connection with spam, malware, or other domain name abuse, and the disputed domain name has been flagged by at least one security vendor as malicious. The current use of the disputed domain name that resolves to a server timeout message, does not establish use in connection with a *bona fide* offering of goods or services.

As regards the third element, the Complainant argues that the disputed domain name contains the Complainant's FACEBOOK trademark and has been used to direct visitors to a website that impersonates the Complainant and prominently used the Complainant's FACEBOOK trademark in connection with selling likes, followers, post likes, and shares. This conduct clearly evidences the Respondent's awareness of the Complainant and its trademarks at the registration of the disputed domain name. The Respondent is plainly targeting the Complainant and is using the disputed domain name in bad faith for commercial gain. The Respondent's bad faith is further evidenced by the fact that the disputed domain name is listed on one or more block lists.

B. Respondent

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

6. Discussion and Findings

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant email and Notification of Complaint was sent to the postal addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence of its rights in the FACEBOOK trademark, which is reproduced in its entirety in the disputed domain name. The addition of the terms "buy", "likes" and of two hyphens does not prevent a finding of confusing similarity with the Complainant's trademarks. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-level-Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the FACEBOOK trademarks and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. On the contrary, as the Complainant demonstrated, and the Respondent has not rebutted, the services offered by the Respondent on the website at the disputed domain name are unauthorised and presumably prejudicial to the Complainant and users of its services. Moreover, the Respondent has not accurately disclosed the lack of any relationship between it and the Complainant, and offered services relating to third parties other than the Complainant as well. Furthermore, the nature of the disputed domain name, comprising the Complainant's trademarks in their entirety, cannot be considered fair as it falsely suggests an affiliation with the Complainant that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has failed to bring evidence to the contrary. With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

The Complainant's registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain name. The Respondent has not denied knowledge of the Complainant. Under these circumstances, and also given the distinctiveness of the Complainant's trademarks and the previous content of the website at the disputed domain name it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks, and with intention to target those trademarks.

As regards the use, the disputed domain name was used for a commercial purpose, purporting to sell FACEBOOK likes, followers, "post likes," and "shares"— something the Complainant submits that would never be authorized, and that is prohibited by the Complainant's guidelines. Such use of the disputed domain name is likely to involve fraudulent operations. Taking this into account, as well as the finding that the Respondent has no right to or legitimate interest in the disputed domain name, given also the distinctiveness of the Complainant's trademarks and the confusing similarity with the Complainant's trademarks, the Panel considers that such use indicates the Respondent was intentionally attempting to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or services offered on the Respondent's website. Also, according to the un rebutted evidence in the

case file, the disputed domain name has been flagged as a security risk which is indication of bad faith registration and use.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. The Respondent also engaged the use of privacy services to mask its contact details on the publicly-available Whois and also seems to have provided incomplete or wrong contact information in the Whois register for the disputed domain name. These facts further support the Panel's bad faith finding.

The Panel finds that the current passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademark of the Complainant is distinctive and widely used in commerce. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Based on the evidence and circumstances of this case, the Panel concludes that the requirement of paragraph 4(a)(iii) of the Policy is satisfied.

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, <buy-facebook-likes.com> be transferred to the Complainant.

/Mihaela Maravela

Mihaela Maravela

Sole Panelist

Date: March 22, 2023