

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. 1 1
Case No. D2023-2634

1. The Parties

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

The Respondent is 1 1, China.

2. The Domain Names and Registrar

The disputed domain names <fbforsale.com>, <fbstores.co>, and <fbstores.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2023. On June 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 20, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 18, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on July 20, 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

The Complainant, Meta Platforms, Inc., is a U.S. social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp. The Complainant's focus is to bring the metaverse to life and to help people connect, find communities, and grow businesses.

The Complainant's Facebook platform was founded in 2004 and is a leading provider of online social media and social networking services. Facebook's mission is to give people the power to build community and bring the world closer together. People use Facebook's services to stay connected with friends and family, to discover happenings around the world, and to share and express what matters to them. The Complainant states that today, Facebook has approximately 2.99 billion monthly active users and 2.04 billion daily active users on average worldwide (as of March 31, 2023). With approximately 85 percent of its daily active users outside the U.S. and Canada, 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 "apps" in the market. The Complainant's FACEBOOK trade mark is currently one of the most famous online trade marks in the world. In 2022, the FACEBOOK brand ranked 17th in Interbrand's Best Global Brands report. Thus, Facebook has developed considerable reputation and goodwill worldwide in connection with a wide variety of goods and services.

Although Facebook is currently inaccessible in mainland China (where the Respondent is based), Facebook is far from an unknown name to the Chinese public, particularly taking into account numerous Chinese press articles (including China's state media People's Daily) on its success and popularity worldwide. Further, the term "fb" commonly refers to Facebook and has been used by international publications such as The New York Times and The Guardian. The Complainant has also made substantial investments to develop a strong presence online by being active on various social-media platforms. For instance, the Complainant's official page on Facebook has over 78.9 million "likes" and 13.9 million followers on Twitter.

The Complainant produced evidence showing that it is the registered owner of numerous word and figurative trade marks for FACEBOOK and FB in many jurisdictions around the world, including the following:

- European Union ("EU") Trade Mark No. 008981383 for FB, registered on August 23, 2011;
- U.S. Trademark Registration No. 4659777 for FB, registered on December 23, 2014;
- U.S. Trademark Registration No. 3041791 for FACEBOOK, registered on January 10, 2006;
- Chinese Trademark Registration No. 5251162 for FACEBOOK, registered on September 21, 2009;
- EU Trade Mark No. 005585518 for FACEBOOK, registered on May 25, 2011;
- International Registration No. 1075094 (including a designation of China) for  , registered on July 16, 2010; and
- U.S. Trademark Registration No. 4639633 for  , registered on November 18, 2014.

The Complainant also submitted evidence that it is the registered owner of numerous domain names containing "facebook" or "fb", including but not limited to, <facebook.com> registered on March 29, 1997; <facebook.co> registered on April 24, 2010; <facebook.cn> registered on March 4, 2005; and <fb.com> registered on May 22, 1990.

The disputed domain names <fbforsale.com>, <fbstores.co>, and <fbstores.com> were registered on August 24, 2022, November 28, 2022, and March 10, 2022, respectively.

The disputed domain names <fbforsale.com> and <fbstores.com>, respectively, resolve to webpages that purport to offer Facebook and WhatsApp accounts for sale. The disputed domain name <fbstores.com> also purports to offer Instagram, Google, PayPal, and Shopify accounts for sale. The webpages make prominent references to Facebook and WhatsApp and display the  and  logos on the homepage. The websites do not include any disclaimer-like statement to clarify its non-affiliation with the Complainant.

The disputed domain name <fbstores.co> redirects to the website at “www.fbstores.com/”.

On March 31, 2023, the Complainant’s lawyers sent a cease and desist letter by email to the Respondent, as well as notices via the Registrar’s Domain Owner Contact Forms, in an attempt to resolve this matter. However, no response was received.

5. Parties’ Contentions

A. Complainant

The disputed domain names are identical or confusingly similar to the FB trade mark in which the Complainant has rights. Each of the disputed domain names incorporate the FB trade mark in its entirety, with the addition of descriptive elements, “forsale” and “stores”. The generic Top-Level Domains (“gTLD”) “.com” and “.co” may be disregarded for the purposes of comparison under the first element of paragraph 4(a) of the Policy, as it is viewed as a standard requirement of registration.

The Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is not using the disputed domain names in connection with any *bona fide* offering of goods or services. The Respondent is not a licensee of the Complainant nor affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of the FB trade mark, in a domain name or otherwise. The disputed domain names resolve to websites which purpose to sell Facebook, WhatsApp, Instagram, and other third-party social media accounts. Such use of the disputed domain names cannot amount to *bona fide* use within the meaning of paragraph 4(c)(i) the Policy.

The Respondent has failed to fulfil the first, second, and third factors set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (the “Oki Data criteria”), namely:

- a. the respondent must actually be offering the goods or services at issue;
- b. the respondent must use the site to sell only the trade marked goods or services;
- c. the site must accurately and prominently disclose the registrant’s relationship with the trade mark holder; and
- d. the respondent must not try to “corner the market” in domain names that reflect the trade mark.

Applying the Oki Data criteria, (a) the Respondent is not a *bona fide* service provider in that it is not providing services for the proper use of the Complainant’s products. Rather, the Respondent is making unauthorized use of the Complainant’s trade mark in order to sell Facebook, WhatsApp, and Instagram accounts, which are free for genuine users of the Complainant’s services; (b) the Respondent’s websites also purport to offer third-party social media accounts for sale, such as Google, PayPal, Shopify, Stripe, Apple Store ID, and Gmail accounts; and (c) the Respondent’s websites do not accurately and prominently disclose its lack of relationship with the Complainant.

There is no evidence to suggest that the Respondent is commonly known by the disputed domain names. The disputed domain name <fbstores.com> was registered using a privacy service, and the disputed domain names <fbforsale.com> and <fbstores.co> were registered under the name “1 1” which does not provide insight to the genuine identity of the registrant. The Respondent’s websites are clearly intended to be commercial in nature and the Respondent’s use of the disputed domain names to sell Facebook, WhatsApp, and Instagram accounts do not amount to legitimate noncommercial or fair use in the form of a fan site or otherwise.

The disputed domain names were registered and are being used in bad faith. The Complainant's FACEBOOK trade mark is highly distinctive and famous throughout the world and has been continuously and extensively used since 2004. Although access to the Facebook website is blocked in China, this is irrelevant to the Respondent's presumed knowledge of the Complainant and its trade marks which have been widely publicized by the Chinese press. The Complainant submitted evidence that all leading search results for "facebook" in Google and Baidu search engines refer to the Complainant. The Respondent cannot credibly argue that he did not have knowledge of the Complainant's FACEBOOK and FB trade marks.

The Respondent's websites make explicit references to Facebook, Instagram, and WhatsApp and makes prominent use of the Complainant's trade marks. Given the confusing similarity between the disputed domain names and the Complainant's trade marks, the display of the Complainant's distinctive  and  logos as well as the absence of any disclaimers clearly disclosing the relationship with the Complainant on the Respondent's websites, Internet users are likely to be misled into believing that the Respondent's websites are somehow affiliated with or otherwise endorsed by the Complainant. In addition, the Respondent's use of a privacy service to conceal its identity and the provision of what appears to be false or incomplete registrant details, further supports an inference of bad faith on the part of the Respondent. The Respondent's failure to respond to the Complainant's cease and desist letter and notices submitted via the Registrar's Domain Owner Contact Forms is another indication of the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established it has rights in the FB trade mark. The disputed domain names wholly comprise the FB trade mark, with the addition of the terms "for sale" and "stores". It is well established that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, meaningless or otherwise) would not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The gTLDs ".com" and ".co" are a technical requirement for domain name registrations and do not generally have any impact - at least under the first element - and are disregarded on the issue of the identity or confusing similarity between the disputed domain names and the Complainant's trade marks. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the disputed domain names are confusingly similar to the FB mark in which the Complainant has rights.

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant's registrations and widely and internationally-publicized FACEBOOK and FB trade marks predate the registration date of the disputed domain names. The Complainant did not license nor authorize the Respondent to use the FB trade mark in a domain name. Neither is there any evidence that the Respondent is commonly known by any of the disputed domain names.

The disputed domain names resolve to webpages which purport to sell social media accounts including the Complainant's Facebook accounts. In considering and applying the Oki Data criteria as set out above, the Panel agrees that the Respondent has failed the first three elements, and therefore the entire test, as there is no evidence to show that the Respondent is actually selling the goods or services at issue, using the websites to sell only the trademarked goods or services, and that the websites accurately and prominently disclose the Respondent's relationship with the trade mark holder, *i.e.*, the Complainant. There is no objective evidence showing that the Respondent is using or has made any preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial or fair use purpose.

The Panel also finds that the use of the Complainant's FB trade mark in the disputed domain names and  trade mark on the Respondent's websites carries a risk that the disputed domain names would be perceived by Internet users to be affiliated with the legitimate holder of the trade marks, *i.e.*, the Complainant. It has been held by prior UDRP panels that where a domain name consists of a trade mark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trade mark owner. See [WIPO Overview 3.0](#), section 2.5.1.

The Respondent's choice of a combination of a famous trade mark associated with the Complainant shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly divert consumers looking for the Complainant.

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain names. The Respondent did not file a Response in the present case to rebut the Complainant's assertions and evidence, nor did it respond to the Complainant's cease and desist letter.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

The Panel is persuaded in the circumstances of this case that the Respondent targeted the Complainant and its well-known FB trade mark. There is no other reason for the Respondent to have registered the disputed domain names except for the sole purpose of riding off the reputation and goodwill in the Complainant's FB trade mark, which is associated to and a common abbreviation for its well known FACEBOOK trade mark, and to create confusion with the Complainant's FACEBOOK and FB trade marks and business:

"If [...] circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant's trademark, *e.g.*, through links to the complainant's competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to 'sell to the highest bidder' or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, [...]. Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner." See section 3.1.1 of the [WIPO Overview 3.0](#).

The Respondent registered the disputed domain names long after the Complainant registered its FB trade mark. Given the goodwill fostered by the Complainant, distinctiveness of the Complainant's FB marks, and

the level of publicity associated with the FB and FACEBOOK trade marks, it is highly unlikely that the Respondent did not know of the Complainant (previously known as Facebook) and its trade marks prior to the registration of the disputed domain names.

Further, the registration of the disputed domain names which comprise the Complainant's FB mark in combination with other terms, used in the manner described above, is a blatant attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant.

Finally, the Respondent's use of the disputed domain names to resolve to websites which prominently display the FACEBOOK and WHATSAPP trade marks and logos on the homepage, and purported offer of the FACEBOOK and WHATSAPP accounts for sale without any authorization from the Complainant, are clear indications that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own websites by creating a likelihood of confusion with the FB and FACEBOOK trade marks as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

Accordingly, given all the particular circumstances of this case, the Panel concludes that the disputed domain names were registered and are being used in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been 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 names <fbforsale.com>, <fbstores.co>, and <fbstores.com> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: August 3, 2023