

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. MaxLike Net, Net
Case No. D2022-1131

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 MaxLike Net, Net, Viet Nam.

2. The Domain Names and Registrar

The disputed domain names <banlikefacebook.xyz>, <dichvufacebook.online>, <hacklikefb.xyz>, and <tanglikefacebook.asia> are registered with GMO Internet, Inc. d/b/a Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2022. On April 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 7, 2022, 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.

On April 11, 2022, the Center sent an email in English and Japanese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on April 11, 2022. The Respondent did not comment on the language of the proceeding.

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 in English and Japanese of the Complaint, and the proceedings commenced on April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 13, 2022.

The Center appointed Erica Aoki as the sole panelist in this matter on May 17, 2022. 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, is a United States social technology company, and operates (among others) Facebook, Instagram, and WhatsApp. Meta's focus is to bring the metaverse to life and to help people connect, find communities, and grow businesses. Founded in 2004, the Complainant's Facebook platform (Facebook), commonly referred to as FB, is a leading provider of online social-media and social-networking services.

The Complainant secured ownership of numerous trade marks for FACEBOOK and FB, registered in jurisdictions around the world which it has used since 2004 (over seventeen years), including, *inter alia*, United States Trademark Registration No. 3041791, FACEBOOK, registered on January 10, 2006, United States Trademark Registration No. 4659777, FB, registered on December 23, 2014, and Vietnamese Trade Mark No. 40128158000, FACEBOOK, registered on June 26, 2009. The Complainant's use of the FACEBOOK mark, in the United States and throughout the world, has been extensive, continuous, and substantially exclusive.

The Complainant has made substantial investments to develop a strong presence online by being active on various social media forums, including Facebook, Twitter, and LinkedIn. For instance, Meta's official Facebook page has over 20 million Facebook "likes" and more than 13 million followers on Twitter. The FACEBOOK mark is unquestionably famous and recognized around the world as signifying high quality, authentic goods and services provided by the Complainant.

The dispute domain names <banlikefacebook.xyz> registered on August 5, 2021, <dichvufacebook.online> registered on July 20, 2021, <hacklikefb.xyz> registered on July 23, 2021, and <tanglikefacebook.asia> registered on July 26, 2021, resolve to a website in Vietnamese entitled "Best of marketing, maxlike.net" purporting to offer marketing services for Facebook and several other online platforms.

5. Parties' Contentions

A. Complainant

The Complainant owns the exclusive rights to the FACEBOOK marks and service since 2004. Since its launch in 2004, Facebook rapidly developed considerable renown and goodwill worldwide, with 1 million active users by the end of 2004, 100 million users in August 2008, 500 million users in July 2010, 1 billion users worldwide by September 2012 and 2.27 billion users as of September 2018.

Today, Facebook has approximately 2.90 billion monthly active users and 1.91 billion daily active users on average worldwide (as of 30 June 2021). Its main website "www.facebook.com" is currently ranked as the 3rd most visited website in the world according to information company Alexa.

The FACEBOOK mark is unquestionably famous and recognized around the world as signifying high-quality, authentic goods and services provided by the Complainant. In addition to its extensive common law rights in the FACEBOOK mark, the Complainant owns numerous registrations protecting the FACEBOOK mark in the United States and around the world.

The disputed domain names, differ from the Complainant's FACEBOOK and FB trademarks only by the addition of the terms "bạn" ("friend" in Vietnamese), "dịch vụ" ("service" in Vietnamese), "tăng" ("increase" in Vietnamese), "hack" and "like", are confusingly similar to the Complainant's FACEBOOK and FB trade marks.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

(i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights; and

(ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and

(iii) that the disputed domain names have been registered and are being used in bad faith.

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Japanese. Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

However, as noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. General Energy a/k/a Edison GE GEEEEGE.COM a/k/a Edison-GE and Edison Electric Corp.*, WIPO Case No. [D2006-0334](#)).

In deciding whether to allow the proceeding to be conducted in a language other than the language of the Registration Agreement, and to require the Complainant in an appropriate case to translate the Complaint into the language of that agreement, the Panel must have regard to all "the relevant circumstances" of the case. The factors that the Panel should take into consideration include *inter alia* whether the Respondent is able to understand and effectively communicate in the language in which the Complaint has been made and would suffer no real prejudice, and whether the expenses of requiring translation and the delay in the proceedings can be avoided without causing injustice to the Parties.

According to section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), prior UDRP panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.

The Complainant has submitted a request that the language of the proceeding be English. The Complainant contends that it is located in the United States and has no knowledge of Japanese. The Complainant would have to retain specialized translation services in order to proceed in Japanese, which would impose an extra burden on the Complainant and unnecessarily delay the proceeding. Further, the Complainant argues that the disputed domain names consist of Latin script, not Japanese characters, the disputed domain names have been registered under the “.asia”, “.online”, and “.xyz” generic Top-Level Domains meant for an international audience, and the Respondent is not located in Japan.

The Panel notes that the Center notified the Respondent in Japanese and English regarding the language of the proceeding and the Respondent was invited to present its objection to the proceeding being held in English and if the Center did not hear from the Respondent by the specified due date, the Center would proceed on the basis that the Respondent had no objection to the Complainant’s request that English be the language of the proceeding. The Respondent had the opportunity to raise objections or make known its preference but did not do so. The Panel further notes that the Center notified the Respondent in Japanese and English regarding the commencement of the proceeding, and the Respondent was informed that it could file a Response either in Japanese or English, but the Respondent did not submit any response.

In addition, the disputed domain names are in Latin characters, and contain English words such as “hack” and “like”. The Panel also finds that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Japanese.

Taking all these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceeding to be conducted in English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Based on the facts presented by the Complainant, this Panel finds that the disputed domain names are confusingly similar to a mark in which the Complainant has rights under Policy, paragraph 4(a)(i). The Complainant has established its rights in FACEBOOK an FB through registration and use. The Panel finds that there is no doubt that the disputed domain names are confusingly similar to the Complainant’s registered trademark, as the disputed domain names include the Complainant’s marks in full, with only the addition of the terms “bạn” (“friend” in Vietnamese), “dịch vụ” (“service” in Vietnamese), “tăng” (“increase” in Vietnamese), “hack”, and “like” to the FACEBOOK and FB mark, which does not prevent a finding of confusing similarity (see section 1.8 of the [WIPO Overview 3.0](#)).

B. Rights or Legitimate Interests

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain names.

Paragraph 4(c) of the Policy indicates that a registrant may have rights or legitimate interests in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Complainant contends that the Respondent is in no way connected with the Complainant and has no authorization to use any of the Complainant’s trademarks. The disputed domain names were used to direct to a website offering marketing services, including the sale of “followers”, “likes”, and “views” in association with Complainant’s online platform and competing platforms, which cannot constitute a noncommercial nor *bona fide* offering of goods and services. There is no evidence on record that the Respondent is or was commonly known by the disputed domain names as an individual, business, or other organization.

There is no evidence on record that the Respondent is using the disputed domain names in connection with *bona fide* offering goods or services or making a legitimate noncommercial or fair use of the disputed domain names.

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain names.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, under the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent has registered and is using the disputed domain names in bad faith.

Previous UDRP panels have found that registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4). The Complainant's FACEBOOK and FB trademarks was registered long before the registration of the disputed domain names. The Complainant has extensively promoted its products and services under the FACEBOOK or FB trademarks. Also, considering the fame and distinctiveness of the Complainant's FACEBOOK and FB trademarks and the Complainant's prior registration of the domain names, the Panel finds that it is most likely that the Respondent was aware of the Complainant's rights to FACEBOOK and FB trademarks at the time the disputed domain names were registered, indicating that such registration was made in bad faith.

The disputed domain names resolve to a website in Vietnamese entitled "Best of marketing, maxlike.net" purporting to offer marketing services for Facebook and several other online platforms.

It is noted by the Panel that: (i) the FACEBOOK and FB trademarks are distinctive and well-known throughout the world; (ii) the Respondent failed to file a Response; and (iii) there is not any plausible good faith use to which the disputed domain names may be put.

Based on the evidence presented, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to an online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or other online location, and this constitutes evidence of bad faith under Policy, paragraph 4(b)(iv).

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain names in bad faith under Policy, paragraph 4(a)(iii).

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, <banlikefacebook.xyz>, <dichvufacebook.online>, <hacklikefb.xyz>, and <tanglikefacebook.asia>, be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: May 31, 2022