

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Doan Quoc, Doan Bao Binh
Case No. D2022-1303

1. The Parties

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

The Respondents are Doan Quoc, Viet Nam and Doan Bao Binh, Viet Nam.

2. The Domain Names and Registrars

The disputed domain name <buyfacebook-likes.org> (the “First Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “First Registrar”). The disputed domain name <autolikefacebook.com> (the “Second Disputed Domain Name”) is registered with iNET Corporation (the “Second Registrar”). The disputed domain names are hereinafter collectively referred to as the “Disputed Domain Names.”

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2022 in respect of the First Disputed Domain Name. On April 12, 2022, the Center transmitted by email to the First Registrar a request for registrar verification in connection with the First Disputed Domain Name. On April 13, 2022, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the First Disputed Domain Name which differed from the named Respondent and contact information in the Complaint, and informing that the language of the registration agreement is English. The Center sent an email communication to the Complainant on April 14, 2022, providing the registrant and contact information disclosed by the First Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 19, 2022, requesting to add the Second Disputed Domain Name to its original Complaint and that English be the language of the proceeding.

On April 25, 2022, the Center transmitted by email to the Second Registrar a request for registrar verification in connection with the Second Disputed Domain Name. On May 14, 2022, the Second Registrar transmitted by email to the Center its verification response confirming that the Respondent Doan Bao Binh is listed as the registrant of the Second Disputed Domain Name and informing that the language of the registration agreement is Vietnamese.

On May 19, 2022, the Center sent an email communication to the Parties in both Vietnamese and English regarding the language of the proceeding. The Complainant reiterated its request for English to be adopted as the language of the proceeding. The Respondents submitted no comments on the language of the proceeding.

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 in both English and Vietnamese the Respondents of the Complaint, and the proceedings commenced on June 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 29, 2022. On June 13, 2022, the first Respondent sent an email communication in English to the Center informing that his Second Disputed Domain Name had been locked and requesting the Center to lock the First Disputed Domain Name.

On July 1, 2022, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on July 13, 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 is a United States social technology company that operates Facebook, Instagram, and WhatsApp. Since its launch in 2004, the Complainant and its Facebook platform (“Facebook”) have operated online social media and social networking services provided in more than 70 languages throughout the world, with approximately 2.90 billion monthly active users and 1.91 billion daily active users on average worldwide today. The Complainant’s main website “www.facebook.com” is currently ranked as the third most visited website in the world, according to Alexa ranking.

The Complainant is the owner of numerous trademark registrations for the wordmark FACEBOOK and the logo “f” in various jurisdictions, including, but not limited to the Vietnamese Trademark Registrations Nos. 40128158000 and 40203081000, registered on June 26, 2009 and April 3, 2013, respectively; the United States Registration No. 3041791, registered on January 10, 2006; European Union Trade Mark Nos. 002483857 and 1282613, registered on June 13, 2003 and December 23, 2014, respectively.

The First Disputed Domain Name and the Second Disputed Domain Name were registered respectively on December 8, 2020 and September 27, 2019. As of the date of this Decision, the Disputed Domain Names are currently resolving to inactive websites. However, according to the evidence submitted by the Complainant, the Disputed Domain Names used to resolve to blog-style websites in Vietnamese, where the Respondents purport to offer tips and/or paid services for increasing “likes” and “followers” on the Complainant’s Facebook service.

5. Parties’ Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Names are identical or confusingly similar to the trademark or service mark in which the Complainant has rights.

First, the Complainant contends that it owns a variety of trademark registrations for FACEBOOK in jurisdictions around the world.

Second, the Complainant asserts that the Disputed Domain Names are confusingly similar to its trademarks because the Complainant's FACEBOOK trademarks are wholly incorporated in the Disputed Domain Names. Moreover, the Complainant emphasizes that the Respondents' additions in the Disputed Domain Names of the terms "buy", "like(s)", "auto", and a hyphen do not prevent a finding of confusing similarity with the Complainant's FACEBOOK trademarks. Besides, the Complainant further argues that the generic Top-Level Domains ("gTLDs") ".com" and ".org" may be disregarded for purposes of assessing confusing similarity because they are standard requirements of registration.

(ii) The Respondents have no rights or legitimate interests in respect of the Disputed Domain Names.

First, the Complainant submits that the Respondents are not making *bona fide* offerings of goods or services at the Disputed Domain Names. In particular, the Complainant asserts that the Respondents are neither licensees of the Complainant nor affiliated with the Complainant in any way. The Complainant observes that the Respondents' services offered on the websites under the Disputed Domain Names violate the Facebook Terms of Service and the Meta Developer Policies. Based on prior UDRP decisions, the Complainant alleges that the provision of such services by the Respondents does not amount to a *bona fide* offering of goods or services.

Second, the Complainant contends that the Respondents are not commonly known by the Disputed Domain Names. According to the Complainant, both registrants names (*i.e.* Doan Quoc and Doan Bao Binh) bear no resemblance to the Disputed Domain Names whatsoever. The Complainant further notes that there is no evidence of the Respondents having acquired or applied for any trademark registrations for either "buyfacebook-likes" or "autolikefacebook" as reflected respectively in the First Disputed Domain Name and the Second Disputed Domain Name. The Complainant additionally asserts that the Disputed Domain Names are not being used in any online service that might give rise to the Respondents' being commonly known by the Disputed Domain Names.

Third, the Complainant alleges that the Respondents are not making legitimate noncommercial or fair use of the Disputed Domain Names without intent for commercial gain to divert consumers misleadingly, supported by the fact that the Disputed Domain Names resolved to blog-style websites in Vietnamese which purport to offer tips for increasing "likes" and "followers" on the Complainant's Facebook platform, and which seemingly facilitate the purchase of such "likes" and "followers". In addition, the Complainant notes that despite its efforts to contact the first Respondent for notification of its rights in the FACEBOOK trademarks, the concerned Respondent, the owner of the First Disputed Domain Name <buyfacebook-likes.org>, has not responded to assert any claim of rights or legitimate interests in this Disputed Domain Name based on any legitimate noncommercial or fair use.

Finally, the Complainant contends that the Complainant has presented a *prima facie* case that the Respondents lack rights or legitimate interests in the Disputed Domain Names. Thus, the burden of production now shifts to the Respondents to come forward with evidence to rebut the Complainant's case.

(iii) The Disputed Domain Names were registered and are being used in bad faith.

First, the Complainant argues that its FACEBOOK trademarks have become highly distinctive and famous worldwide through continuous and extensive use since 2004. Thus, the Respondents should have been aware of the Complainant's FACEBOOK mark at the time of registration of the Disputed Domain Names, given the fame of the Complainant's FACEBOOK trademarks. In addition, the Complainant alleges that the Respondents' intent to target the Complainant through registrations of the Disputed Domain Names may be inferred from the content of the websites to which the Disputed Domain Names resolved and which made

explicit reference to Facebook.

Second, the Complainant submits that the Respondents' use of the Disputed Domain Names intentionally attempts to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's FACEBOOK trademarks as to the source, sponsorship, affiliation, or endorsement of the websites to which the Disputed Domain Names resolve. In addition, such use of the Disputed Domain Names by the Respondents is illegitimate and likely to damage the Complainant's reputation and goodwill, which constitutes an additional strong indication of the Respondents' bad faith. The Complainant further notes that the First Disputed Domain Name pointed to a website displaying modified versions of the Complainant's figurative trademark without any disclaimer which would indicate its lack of connection to the Complainant.

In addition, the Complainant argues that the Respondents did not sufficiently reply to the Complainant's notice, which may also be considered an additional indicator of the Respondents' bad faith.

With the said arguments, the Complainant requests that the Disputed Domain Names be transferred to the Complainant.

B. Respondents

The Respondents submitted no response to the substantive issues of the case, except for the email dated June 13, 2022, in which the Respondent named Doan Quoc (having the email sender named "Doan Minh Quoc" (in Vietnamese: Đoàn Minh Quốc) informed the Complainant and the Center that the Second Disputed Domain Name was locked, and requested the Center to lock the First Disputed Domain Name since its Registrar did not allow him to do so.

6. Discussion and Findings

A. Procedural Issues

(I) Consolidation of Multiple Respondents

In its amended Complaint filed on April 19, 2022, the Complainant has requested that the Complaint be consolidated against both of the registrants of the Disputed Domain Names.

Paragraph 10(e) of the Rules provides for the consolidation of multiple domain name disputes: "A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules." Under section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), proceedings against more than one respondent may be consolidated where "(i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties".

In this case, the undisputed evidence indicates that both Disputed Domain Names are subject to common control. Particularly:

First, both registrants appear to be closely related to each other since the Disputed Domain Names share the same registered email address and telephone number, and both registrants are based in Ho Chi Minh City of Viet Nam, as disclosed by the First Registrar on April 13, 2022, and the Second Registrar on May 14, 2022.

Second, the common control also appears in the email dated June 13, 2022 sent by the registrant of the First Disputed Domain Name (*i.e.*, Doan Quoc), in which he not only requests the Center to lock the First Disputed Domain Name but also informs the Complainant and the Center that the Second Disputed Domain Name was locked.

Further, in the instant case, though the Respondents have been given opportunities to object to the Complainant's consolidation request, but have chosen not to submit any response or objection to rebut the consolidation. The Panel also finds that consolidation would avoid unnecessary duplication of time, effort, and expense, and ultimately would be fair and equitable to all parties (see, e.g., *Fulham Football Club (1987) Limited, et.al v. Domains by Proxy, Inc./ Official Tickets Ltd*, WIPO Case No. [D2009-0331](#)).

Based on the foregoing, the Panel is satisfied that both Disputed Domain Names are subject to common control, and it would be fair and equitable to all parties to proceed with the consolidation.

(II) Language of the Proceeding

The Complaint was filed in English. The Registration Agreement for the First Disputed Domain Name is in English. However, the Second Registrar confirmed that the language of the Registration Agreement for the Second Disputed Domain Name is Vietnamese.

As the Complaint was filed in English, the Center, in its email communication dated May 19, 2022, invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondents to the effect that the proceeding should be in English, or (ii) the Complaint translated into Vietnamese, or (iii) a substantiated request for English to be the language of the proceeding.

On May 19, 2022, the Complainant, in its email communication to the Center, confirmed its request that English be the language of the proceeding. It also confirmed that it did not wish to make further submissions on the language of the proceeding at that time beyond those provided in the Complaint.

Similarly to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred, and the possibility of delay in the proceeding in the event translations are required and other relevant factors (see, e.g., *Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

(i) the fact that the Complainant, a United States entity, does not appear to be able to communicate in Vietnamese, and therefore if the Complainant was required to have the documents translated into Vietnamese, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation;

(ii) the English language is quite popular in Viet Nam, where the Respondents appear to be located, and the Disputed Domain Names and each of their associated websites contained English content. In addition, the Respondent's communication of June 13, 2022 was written in English. These suggest that the Respondents have knowledge of the English language and would be able to communicate in English;

(iii) the Respondents did not object to English being the language of the proceeding and did not submit a formal response in either English or Vietnamese.

Therefore, in the interest of fairness to both Parties as well as the Panel's obligation under paragraph 10(c) of the Rules, which provides that "[t]he Panel shall ensure that the administrative proceeding takes place with due expedition", the Panel hereby decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

B. Identical or Confusingly Similar

The Complainant is required to establish the two following elements: (i) that it has trademark rights, and, if

so, (ii) that the Disputed Domain Names are identical or confusingly similar to its trademark.

First, the Panel finds that the Complainant has clearly evidenced that it has registered trademark rights to FACEBOOK based on longstanding use and its various national and international trademark registrations in many countries, including Viet Nam where the Respondents reside, well before the Disputed Domain Names were registered.

Second, the Disputed Domain Names consist of the Complainant's FACEBOOK trademarks in their entirety, to which the Complainant has exclusive rights. The difference between the Disputed Domain Names and the Complainant's trademark is the addition of the terms "buy", "likes", and a hyphen (for the First Disputed Domain Name) and the terms "auto" and "like" (for the Second Disputed Domain Name). It is well established that merely adding a term to a trademark does not prevent a finding of confusing similarity. Thus, in the Panel's view, the addition of the said terms and the hyphen would not prevent a finding of confusing similarity, as it was found in previous UDRP decisions (see, e.g., *Price Costco International, Inc. v. Huynh Van Duc*, WIPO Case No. [D2020-0321](#); *Philip Morris Products S.A. v. Ong Nguyen Ngoc Ha*, WIPO Case No. [D2019-2509](#); and *Facebook, Inc. v. Domain Admin Privacy Protect, LLC (PrivacyProtect.org) / Do Viet Dung*, WIPO Case No. [D2019-1121](#)).

Third, the Panel finds, similarly to other UDRP panels, that the addition of the gTLDs ".org" and ".com" to the Disputed Domain Names does not constitute an element to avoid confusing similarity for the Policy purposes (see, e.g., *Volkswagen AG v. Privacy Protection Services*, WIPO Case No. D2012 2066; *The Coca-Cola Company v. David Jurkiewicz*, WIPO Case No. [DME2010-0008](#); *Telecom Personal, S.A., v. NAMEZERO.COM, Inc.*, WIPO Case No. [D2001-0015](#); *F. Hoffmann La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Based on the foregoing findings, the Panel finds that the Disputed Domain Names are confusingly similar to the FACEBOOK trademarks, and paragraph 4(a)(i) of the Policy is established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists circumstances, in particular, but without limitation, which, if found by the Panel to be proved, demonstrate the Respondents' rights or legitimate interests in the Disputed Domain Names for the purposes of paragraph 4(a)(ii) of the Policy, including:

- "(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Panel finds that the Complainant has made a *prima facie* case that the Respondents have no rights or legitimate interests in the Disputed Domain Names. The Respondents' informal communications are insufficient to refute the Complainant's contentions, as discussed further below.

The consensus view of previous UDRP decisions is that while the overall burden of proof in UDRP proceedings is on the complainant, once a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the disputed domain name (see, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Julian Barnes v. Old Barn Studios*, WIPO Case No. [D2001-0121](#)). In the instant case, the Panel finds that the Respondents have failed to meet that burden since no formal response

was submitted with evidence to the contrary.

Regarding paragraph 4(c)(i) of the Policy, the Panel acknowledges, in light of the Complainant's asserted facts, that no license, permission, or authorization of any kind to use the Complainant's trademarks has been granted to the Respondents. There is no evidence that the Respondents hold any registered or unregistered trademark rights in any jurisdiction related to the FACEBOOK trademarks or the Disputed Domain Names. Thus, the Panel finds that the Respondents have no rights to the FACEBOOK trademarks.

The Panel takes the view that the Respondents have not demonstrated any preparations to use and have not used the Disputed Domain Names in connection with a *bona fide* offering of goods or services. On the contrary, as evidenced by the Complainant, the Disputed Domain Names resolved to websites seemingly enabling the purchasing of "likes" and/or "followers" for users' Facebook accounts on the Complainant's Facebook platform. The provision of services offered by the Respondents does not amount to a *bona fide* offering of goods or services (see, e.g., *Instagram, LLC v. Whois privacy protection service / Olga Sergeeva / Ivan Ivanov / Privacy Protect, LLC (Privacy Protect.org)*, WIPO Case No. [D2020-0521](#)).

In this particular case, it is proven and evidenced by the Complainant that the Disputed Domain Names were used to operate unauthorized websites prejudicial to the Complainant that purport to supply individuals with Facebook "likes" and/or "followers". Moreover, the Panel finds that the Respondents did not place any disclaimer on the websites disclosing accurately and prominently their relationship (or lack thereof) with the Complainant. In contrast, the Panel finds that the websites under the Disputed Domain Names contained some elements referring to the Complainant and its FACEBOOK trademarks and the logo. These indications may falsely suggest a relationship between the Respondents and the Complainant's services. Moreover, the nature of the Disputed Domain Names themselves carries a risk of implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

With such a view, the Panel finds that the use of the Disputed Domain Names does not constitute a *bona fide* use within paragraph 4(c)(i) of the Policy.

Regarding paragraphs 4(c)(ii) and 4(c)(iii) of the Policy, the Panel finds that no evidence would suggest that the Respondents, as individuals, businesses, or other organizations, have been commonly known by the Disputed Domain Names. Rather, the Respondents' use of the Disputed Domain Names is of commercial nature that does not constitute a legitimate noncommercial or fair use of the Disputed Domain Names. After reviewing the facts and circumstances in the record regarding the Respondents' registrations and uses of the Disputed Domain Names, the Panel is satisfied that the Respondents had full knowledge of the FACEBOOK trademarks and intended to gain profit by riding on the goodwill and reputation of the Complainant.

Accordingly, the Panel finds that the Respondents have no rights or legitimate interests regarding the Disputed Domain Names, and the second element, paragraph 4(a)(ii) of the Policy, is established.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies, in particular, but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, including:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The above four circumstances are not exhaustive, and the Panel may find bad faith alternatively.

The Panel finds that the Complainant has put forth evidence that the Respondents have registered and used the Disputed Domain Names in bad faith. The Respondents did not reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The Panel has considered the Complainant's assertions and evidence concerning the Respondents' bad faith registration and use of the Disputed Domain Names. In this regard, the Panel finds that the Complainant's FACEBOOK trademarks have been registered in numerous jurisdictions around the world, including in Viet Nam, where the Respondents reside, for many years before the Disputed Domain Names were registered. In addition, the FACEBOOK trademarks have enjoyed a considerable reputation throughout the world in relation to the Complainant's online social networking services, as also recognized by prior UDRP panels (see, e.g., *Facebook, Inc. v. Domain Administrator, PrivacyGuardian.org / Hernando Sierra*, WIPO Case No. [D2018-1145](#)). The Panel further notes that the Disputed Domain Names comprise the Complainant's FACEBOOK trademarks in their entirety, with the addition of terms and a hyphen. Given the longstanding registrations and extensive use of the FACEBOOK trademarks by the Complainant, which occurs in numerous countries, the Panel has considered it is implausible that the Respondents registered the Disputed Domain Names in a fortuity. Also, in consideration of the use of the Disputed Domain Names and the contents of the websites thereunder, the Panel is of the view that the Respondents knew of the Complainant and its FACEBOOK trademarks when they registered the Disputed Domain Names. Consequently, the Panel considers the registrations of the Disputed Domain Names are attempts by the Respondents to take unfair advantage of the Complainant's goodwill and the reputation of the Complainant's FACEBOOK trademarks.

In addition, on the date of this Decision, the Panel finds that the Disputed Domain Names are resolving to inactive websites. However, it is well proven and evidenced by the Complainant that the Disputed Domain Names used to resolve to websites offering paid services that purported to artificially increase the number of "likes" and/or "followers" linked to users' Facebook accounts. In addition to adopting the Complainant's FACEBOOK trademarks as a uniquely distinctive part of the Disputed Domain Names, the Respondents used the Complainant's trademarks and logo on the websites without disclosure of the actual relationship with the Complainant. In the absence of any substantive reply by the Respondents, the Panel considers such use indicates the Respondents were intentionally attempting to attract, for commercial gain, Internet users to their websites, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondents' websites or services offered on the Respondents' websites. In contrast, no such connection exists in fact. Hence, under the attendant circumstances, the Panel is of the view that paragraph 4(b)(iv) is established.

The fact that the Disputed Domain Names currently resolve to inactive websites does not prevent a finding of bad faith registration and use.

Taking into account all of the above and the available record, the Panel finds that the Disputed Domain Names were registered and are being used by the Respondents in bad faith, and the third element under paragraph 4(a)(iii) of the Policy is established.

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, <buyfacebook-likes.org> and <autolikefacebook.com>, be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: July 29, 2022