

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Privacy service provided by Withheld for Privacy ehf /
Valdo Rojs

Case No. D2022-2327

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 Privacy service provided by Withheld for Privacy ehf, Iceland / Valdo Rojs, Austria.

2. The Domain Names and Registrar

The disputed domain names <metapresale.click>, <metapresale.online>, <meta-sale.store>, <metatokenlive.shop>, <metatokensale.xyz>, and <metawebsale.live> (the “Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2022. On June 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. Also on June 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 30, 2022, 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 July 5, 2022.

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 July 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2022.

The Center appointed Nicholas Smith as the sole panelist in this matter on August 2, 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 leading global provider of social media and social networking services, delivered most commonly through its website at “www.facebook.com”. In October 2021 the Complainant changed its name from Facebook, Inc. to its present name to reflect its focus on building the Metaverse. The Complainant has also been involved in building a payment system using blockchain technology involving the creation of a cryptocurrency formerly known as Libra and presently known as Diem.

The Complainant is the owner of multiple trade mark registrations for the word META (the “META Mark”), including a United States trade mark registered on in 2018 but assigned to the Complainant on October 26, 2021, (registration number 5,548,121) for various services in classes 35 and 42.

The Domain Names were registered between December 28, 2021 and January 4, 2022 and are presently inactive. Prior to the commencement of the proceeding the Domain Names <metapresale.click> and <metapresale.online> (“Active Domain Names”) resolved to a website (“the Respondent’s Website”) prominently featured the Complainant’s Meta Logo and purported to offer pre-sales of a “Meta Coin” a fictional cryptocurrency stated to be used in conjunction with the Complainant’s online platform. The remaining Domain Names (“Inactive Domain Names”) resolved to websites operated by the Complainant (namely the Complainant’s Facebook page). However there is evidence, based on an article at a third party website, that the Inactive Domain Name <meta-sale.store> at one point resolved to the Respondent’s Website.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) that the Domain Names are identical or confusingly similar to the Complainant’s META Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Names; and
- (iii) that the Domain Names have been registered and are being used in bad faith.

The Complainant is the owner of the META Mark, having registered the META Mark in the United States and other jurisdictions. The Domain Names each reproduce the META Mark along with additional descriptive words and Top-Level Domains (“TLDs”) which do not distinguish the Domain Names from the META Mark.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Names. The Respondent is not commonly known as the Domain Names nor does the Respondent have any authorization from the Complainant to register the Domain Names. The Respondent is not making a legitimate noncommercial or fair use of the Domain Names. Rather the Respondent has used the Active Domain Names to impersonate the Complainant for the purpose of operating a fraudulent advance-fee cryptocurrency scheme to target users aware of the Complainant, such use not being *bona fide* and is holding the Inactive Domain Names pending similar use.

The Domain Names were registered and are being used in bad faith. The Active Domain Names have been being used to impersonate the Complainant for the purpose of a committing fraud. The fact that the other Domain Name merely resolve to the Complainant's websites does not prevent a finding of bad faith, given the surrounding circumstances and the likely use of the Inactive Domain Names to support the Respondent's fraudulent activities. Accordingly, such conduct amounts to registration and use of the Domain Names in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights and each Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the META Mark, having registrations for the META Mark as a trade mark in the United States.

Each of the Domain Names incorporates the META Mark with the addition of other terms (and a TLD, which can be discounted as an essential element of any domain name). Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that all of the Domain Names are confusingly similar to the Complainant's META Mark.

B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (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 Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Names or to seek the registration of any domain name

incorporating the META Mark or a mark similar to the META Mark. There is no evidence that the Respondent is commonly known by any of the Domain Names or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Names in connection with a legitimate noncommercial use.

The Respondent has used the Active Domain Names to impersonate the Complainant (by the use of the META Mark and logo) for the purpose of engaging in an advance fee fraud scheme, requesting payment in exchange for the provision of a fictitious "Meta coin". Such conduct is fraud. As stated in section 2.3.1 of the [WIPO Overview 3.0](#) "[p]anels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent".

The Respondent has used the Inactive Domain Names to resolve to the Complainant's website. Given the surrounding circumstances, where the Active Domain Names have been used to impersonate the Complainant, the use of the Inactive Domain Names in this manner is not a *bona fide* offering of goods and services or a legitimate noncommercial or fair use. On the balance of probabilities, the Inactive Domain Names are being held pending use in a similar manner to the Active Domain Names or to otherwise support the Respondent's fraudulent activities.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has had the opportunity to put on evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Names under the Policy. In the absence of such a response the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent has registered or has 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 trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

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

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

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on the respondent's website or location (Policy, paragraph 4(b)).

The Panel finds that the Respondent was aware of the Complainant and its reputation in the META Mark at the time the Domain Names were registered. The Inactive Domain Names resolved to websites operated by the Complainant and the Active Domain Names resolved to websites impersonating the Complainant for the commission of a fraud. The Respondent does not provide, nor is it apparent to the Panel, any reason why the Domain Names were registered other than by reference to the Complainant. The registration of the Domain Names in awareness of the Complainant and its rights in the META Mark and in the absence of

rights or legitimate interests amounts to registration in bad faith.

The Respondent has used the Active Domain Names to impersonate the Complainant for the purpose of conducting an advanced payment scam. Such conduct is deceptive, illegal, and in previous UDRP decisions has been found to be evidence of registration and use in bad faith; see *The Coca-Cola Company v. Marcus Steiner*, WIPO Case No. [D2012-1804](#).

As stated in section 3.1.4 of the [WIPO Overview 3.0](#) “[p]anel has found that a respondent redirecting a domain name to the complainant’s website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant”. The Panel finds on the balance of probabilities that the Inactive Domain Names were used, or held pending use, in a similar manner as the Active Domain Names.

In view of the above, the Panel finds that the Respondent is using the Domain Names in bad faith.

Accordingly, the Panel finds that the Respondent has registered and used the Domain Names in bad faith under paragraph 4(a)(iii) 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, <metapresale.click>, <metapresale.online>, <meta-sale.store>, <metatokenlive.shop>, <metatokensale.xyz>, <metawebsale.live> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: August 12, 2022