

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Registration Private, Domains By Proxy, LLC / Tim Ordonez

Case No. D2022-2409

### **1. The Parties**

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

Respondent is Registration Private, Domains By Proxy, LLC, United States / Tim Ordonez, United States.

### **2. The Domain Name and Registrar**

The Disputed Domain Names <facebookmetadownload.com> and <metafacebookdownload.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 July 1, 2022. On July 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on July 12, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 13, 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 Respondent of the Complaint, and the proceedings commenced on July 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 12, 2022.

The Center appointed Michael A. Albert as the sole panelist in this matter on August 18, 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**

Complainant is a United States social media and technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), Novi, Portal, and WhatsApp. Complainant, formerly known as Facebook Inc., announced its change of name to Meta Platforms Inc. on October 28, 2021, which was publicized worldwide.

Facebook has approximately 2.90 billion monthly active users and 1.91 billion daily active users on average worldwide (as of June 30, 2021). Its main website, “www.facebook.com”, was ranked as the third most visited website in the world according to the last ranking provided by information company Alexa.

Complainant owns numerous trademarks for FACEBOOK and META, registered in jurisdictions around the world including the following:

- United States Trademark Registration No. 3041791, FACEBOOK, registered on January 10, 2006;
- European Union Trade Mark No. 002483857, FACEBOOK, registered on June 13, 2003;
- International Registration No. 1280043, FACEBOOK, registered on December 23, 2014;
- United States Trademark Registration No. 5548121, META, registered on August 28, 2018;
- Andorran Trademark Registration No. 43626, META, registered on January 3, 2022; and
- Monaco Trademark Registration No. 2200039, META, registered on February 8, 2022.

The Disputed Domain Names were registered on October 31, 2021, and resolve to inactive websites.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the Disputed Domain Names are confusingly similar to trademarks in which Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy.

Complainant contends that Respondent has no rights or legitimate interests in the Disputed Domain Names. Respondent is not a licensee of Complainant, nor has Respondent been otherwise authorized by Complainant to make any use of Complainant's FACEBOOK or META trademarks in a domain name or otherwise. Respondent is not using the Disputed Domain Names in connection with any *bona fide* offering of goods or services.

Complainant contends that by registering the Disputed Domain Names, each of which comprises Complainant's FACEBOOK and META trademarks in their entirety, together with a descriptive term under the generic Top-Level Domain (“gTLD”) “.com”, Respondent has registered the Disputed Domain Names to prevent Complainant from reflecting its trademarks in the Disputed Domain Names, and that Respondent has engaged in a pattern of such conduct, in bad faith as contemplated by paragraph 4(b)(ii) of the Policy.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

Complainant owns numerous trademark registrations for FACEBOOK and META in jurisdictions throughout the world (e.g., section 4 above). Those marks have acquired reputation, as they are associated with one of the most widely-used web sites in the world, as well as several others that are also well known worldwide.

Each of the Disputed Domain Names comprises Complainant's FACEBOOK and META trademarks in their entirety. The Disputed Domain Names differ from Complainant's trademarks only by the addition of the term "download" and the gTLD ".com". Such alterations do not prevent confusing similarity between the Disputed Domain Names and the Complainant's marks. Complainant's trademarks remain clearly recognizable in each of the Disputed Domain Names.

Accordingly, the Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Complainant's right in its FACEBOOK and META marks are clearly established by their registrations and use. Respondent is not a licensee of Complainant, nor has Respondent been otherwise authorized by Complainant to make any use of Complainant's FACEBOOK or META trademarks in a domain name or otherwise. There is no evidence to suggest that Respondent is commonly known by the Domain Names, as contemplated by paragraph 4(c)(ii) of the Policy.

Further, the Disputed Domain Names do not resolve to active websites. Such use of the Disputed Domain Names amounts to passive holding. Prior UDRP panels have found that the passive holding (non-use) of a domain name can support a finding of a lack of any *bona fide* offering of goods or services. See *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#) (<Instagramhelpcenter.com>). Moreover, the composition of the Disputed Domain Names, coupling together two of Complainant's famous trademarks along with the descriptive term "download", carries a risk of implied affiliation that cannot constitute fair use.

A *prima facie* case has been presented that Respondent does not have rights or legitimate interests in either of the Disputed Domain Names. Respondent has failed to respond, thereby failing to rebut the *prima facie* case.

For the above reasons, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

Complainant's FACEBOOK and META trademarks are well known throughout the world. It is not plausible that Respondent was unaware of Complainant's trademarks when registering the Disputed Domain Names, given that the registrations of the Disputed Domain Names took place only three days after Complainant's name change to "MetaPlatforms, Inc.", a change that was publicized world-wide. Indeed, Respondent has not made that (or any other) argument.

In addition, Respondent was involved in prior domain name dispute proceedings brought by Complainant under the Policy. See *Meta Platforms, Inc., Instagram, LLC v. Domains By Proxy, LLC / Tim Ordonez*, WIPO Case No. [D2022-1789](#) (<metainstagramdownload.com> et al.) and *Meta Platforms, Inc. v. Domains By Proxy, LLC / Tim Ordonez*, WIPO Case No. [D2022-2373](#) (<facebookmetadownload.info> et al.).

Such knowledge is sufficient to establish that the Disputed Domain Names were appropriated by Respondent in bad faith. See *Caesars World, Inc. v. Forum LLC* (WIPO Case No. [D2005-0517](#)) (finding bad faith where Respondent registered the domain name CAESARSPALACEPOKER.COM after it knew or should have known about Complainant's trademarks).

Furthermore, prior UDRP panels have found that the non-use of a domain name would not necessarily prevent a finding of bad faith under the doctrine of passive holding. Here, noting the notoriety of Complainant's trademarks, that the Disputed Domain Names are composed of two of Complainant's trademarks, the temporal proximity of the registrations to the publicized name change of Complainant, Respondent's use of a privacy service to mask his details, and the established pattern of bad faith registrations by Respondent, the Panel finds that the Respondent's non-use of the Disputed Domain Names does not prevent a finding of bad faith.

The Panel finds that Complainant has satisfied 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 Names, <facebookmetadownload.com> and <metafacebookdownload.com> be transferred to Complainant.

*/Michael A. Albert/*

**Michael A. Albert**

Sole Panelist

Date: August 31, 2022