

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Registration Private, Domains By Proxy, LLC / randy fierro, angels.net
Case No. D2022-2601

1. The Parties

The Complainant is Meta Platforms, Inc., United States of America (“United States”), represented by Tucker Ellis, LLP, United States.

The Respondent is Registration Private, Domains By Proxy, LLC, United States / randy fierro, angels.net, United States.

2. The Domain Names and Registrar

The disputed domain names <facebookneuralnetwork.com>, <facebookneuralnetworks.com>, and <facebookwebservice.com> are all 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 16, 2022. On July 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrants 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 the Complainant on July 22, 2022, providing the registrants 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 28, 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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2022.

The Center appointed Ik-Hyun Seo as the sole panelist in this matter on August 24, 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 the owner and operator of the Facebook social networking website and mobile application. Facebook was launched in 2004 and currently has more than one billion daily active accounts and over two billion monthly active users from all over the world. According to Forbes magazine, the Facebook app is the third most downloaded app globally and the seventh most downloaded app in the United States, and the FACEBOOK mark is ranked 15th in Interbrand's Best Global Brands 2021 report. In addition to the <facebook.com> domain name, the Complainant owns and operates numerous other domain names consisting of the FACEBOOK mark in combination with various generic and country code top-level domain extensions, including <facebook.org> and <facebook.net>. The Complainant has a number of trademark registrations to the FACEBOOK mark including United States Trademark Registration Numbers 3,122,052, and 3,881,770, registered on July 25, 2006 and November 23, 2010, respectively.

The Respondent appears to be an individual with an address in the United States.

The disputed domain names <facebookneuralnetwork.com> and <facebookneuralnetworks.com> were registered on August 7, 2021, and the disputed domain name <facebookwebservice.com> was registered on July 24, 2021. All three disputed domain names resolve to websites that display no content.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the FACEBOOK trademark in which the Complainant has rights. The Complainant explains that each of the disputed domain names contains the distinctive FACEBOOK trademark in its entirety along with terms "neuralnetwork", "neuralnetworks", and "webservice" which are mere descriptive terms, and therefore, the disputed domain names are confusingly similar to the FACEBOOK mark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain names and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant explains that there is no evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain names in connection with a *bona fide* offering of goods or services. The Complainant further contends that the Respondent appears to have used the disputed domain names for abusive activity, since the disputed domain names are on a domain name system blacklist which allows Internet providers and other website administrators to block emails or traffic from specific systems. The Complainant asserts that this indicates the disputed domain names were used in connection with spam, malware, or other domain name abuse, and that such use cannot be legitimate use of the disputed domain names.

Finally, the Complainant contends that the disputed domain names were registered and used in bad faith. First, the Complainant explains that given the high level of fame of the Complainant's FACEBOOK mark, there can be no plausible good faith reason for the Respondent to have registered the disputed domain names. The Complainant also contends that the fact that the disputed domain names are on a blacklist shows that the disputed domains were used in 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 demonstrated with supporting evidence that it has rights to the trademark FACEBOOK, registered well before the registration of the disputed domain names. As for the disputed domain names, they each contain the FACEBOOK mark in its entirety along with the terms “neuralnetwork”, “neuralnetworks”, and “webservice”. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, the FACEBOOK mark is readily recognizable within the disputed domain names, and the additional terms do not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain names. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant’s mark, and the additional terms “neuralnetwork”, “neuralnetworks”, and “webservice” are descriptive of, or similar to, the types of services that the Complainant provides, and carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

Considering the fame of the Complainant and the Complainant’s trademark, it is highly unlikely for the Respondent to have not known about the Complainant prior to registering the disputed domain names. In fact, the Respondent was also the respondent in a prior WIPO UDRP case, dated 2021, concerning 69 domain names, 39 of which incorporated the FACEBOOK mark, including <facebookadvertisingcorp.com>, <facebookadvertisingcorporation.com>, <facebookindustry.com>, and <facebookproductsinc.com> (See *Facebook Inc., Instagram, LLC v. randy fierro, angels.net, Domains By Proxy, LLC*, WIPO Case No. [D2021-1782](#)). The panel in that case found bad faith on the part of the respondent and ordered the transfer of the domain names to the Complainant, and based on this history, it is clear that the Respondent is acting in a pattern of bad conduct and knew of the Complainant and its services and in all likelihood, registered the disputed domain names with the intention of benefiting from the fame of the mark in some way.

Further, the websites at the disputed domain names currently do not display any content, but the Complainant has provided evidence that the disputed domain names were at one point placed on domain name blacklists, which is commonly a result of spam emailed from the domain name, an Internet service provider that has been blacklisted, or server with malware. The Complainant argues that this supports a finding of bad faith use on the part of the Respondent, and absent any explanation from the Respondent, the

Panel is willing to accept that there was most likely bad faith use given the fame of the FACEBOOK mark and the Respondent's history of bad faith registration and use of FACEBOOK-based domain names.

Irrespective of any prior use, the current passive holding of the disputed domain name does not prevent a finding of bad faith under the totality of circumstances present here. Among notable factors, the Complainant's trademark is globally renowned, the Respondent has previously been subject to a UDRP decision finding that the Respondent targeted the Complainant in bad faith, the Respondent has not provided any explanation or rebuttal, and the Respondent utilized a privacy service in an attempt to mask its details when registering the disputed domain names.

For the reasons given above, the Panel finds that the third element has been 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, <facebookneuralnetwork.com>, <facebookneuralnetworks.com>, and <facebookwebservice.com> be transferred to the Complainant.

/Ik-Hyun Seo/

Ik-Hyun Seo

Sole Panelist

Date: September 7, 2022