

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Rahul Sharma

Case No. D2022-2607

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 Rahul Sharma, India.

2. The Domain Name and Registrar

The disputed domain name <security-facebook-mail.com> is 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 18, 2022. On July 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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.

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 of the Complaint, and the proceedings commenced on August 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on September 1, 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 owns trademark registrations for FACEBOOK throughout the world, including in India. Such trademark registrations include but are not limited to the following:

- Indian Trademark No. 1622925, FACEBOOK, registered on November 20, 2007;
- United States Trademark No. 3041791, FACEBOOK, registered on January 10, 2006 (first use in commerce in 2004);
- International Trademark No. 1075807, FACEBOOK, registered on July 16, 2010.

The Complainant is the owner of numerous domain names consisting of Complainant's FACEBOOK trademark, for instance, <facebook.com>, <facebook.org>, <facebook.biz>, <facebook.cn> (China), <facebook.us> (United States), <facebook.com.pl> (Poland), <facebook.be> (Belgium), <facebook.eu> (European Union), <facebook.fr> (France), <facebook.de> (Germany) and <facebook.in> (India).

The disputed domain name was registered on January 8, 2022. The registrant of the disputed domain name is Rahul Sharma, based in India.

At the time of filing of the Complaint, the disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

- (1) The disputed domain name is confusingly similar to the Complainant's FACEBOOK trademark.
- (2) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is neither affiliated with nor has been licensed or permitted to use the FACEBOOK mark or any domain names incorporating the FACEBOOK mark. Besides, the Respondent is not commonly known by the disputed domain name. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services.
- (3) The Respondent registered and is using the disputed domain name in bad faith. Given the Complainant's worldwide reputation, the Respondent was or should have been aware of the FACEBOOK mark prior to registering the disputed domain name.

On May 9, 2022, the Complainant's representatives sent a cease and desist letter to the Respondent, asserting the Complainant's trademark rights and requesting the transfer of the disputed domain name. In the absence of the Respondent's response, the Complainant's representatives sent a follow-up email on May 26, 2022. The Respondent never responded to the Complainant's cease and desist letter and follow-up email.

The Complainant requests transfer of the disputed domain name in order to protect its rights and legitimate business interests.

B. Respondent

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

6. Discussion and Findings

To succeed, in a UDRP complaint, complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

The Complainant has demonstrated ownership of its FACEBOOK trademarks in multiple jurisdictions. Therefore, the Panel is satisfied that the Complainant has trademark rights in the FACEBOOK mark.

Furthermore, the Panel is of the view that FACEBOOK trademark is immediately recognizable in the disputed domain name and that the addition of other elements (*i.e.*, terms "security", and "mail", and two hyphens) does not prevent a finding of confusing similarity. Prior UDRP panels have found similarly-constructed domain names to be confusingly similar to the trademark at issue (See *Facebook Inc. v. te5gfh gtfghbfh*, WIPO Case No. [D2018-2433](#)).

The addition of the generic Top-Level Domain ".com" shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. See [WIPO Overview 3.0](#), section 1.11.1.

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

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of "proving a negative", in particular as the evidence needed to show the Respondent's rights or legitimate interests is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed

domain name to meet the requirements of paragraph 4(a)(ii) of the Policy.

The Panel has found out that the Respondent is not a licensee of the Complainant and not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its FACEBOOK trademarks, in a domain name or otherwise.

There are no evidence in the case file that the Respondent has ever used, or had made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The disputed domain name does not resolve to an active website. Such use of the disputed domain name amounts to passive holding. Prior UDRP panels have found that the non-use of a domain name does not amount to use of the domain name in connection with any *bona fide* offering of goods or services. See *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#). Therefore, the Panel finds that the disputed domain name does not amount to a *bona fide* offering of goods or services.

There is no evidence to suggest that the Respondent is commonly known by the disputed domain name. The Respondent's name, Rahul Sharma, as confirmed by the Registrar, bears no resemblance to the Complainant's FACEBOOK trademarks. The Panel finds that the Complainant has established a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the burden of production shifts to the Respondent to come forward with evidence to rebut the Complainant's case.

In the absence of a Response, the Respondent has failed to demonstrate any of the non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's FACEBOOK trademark is highly distinctive and famous throughout the world (including in India where the Respondent is based) and has been continuously and extensively used since 2004.

The Complainant submits that it is inconceivable for the Respondent to argue that he was not aware of the Complainant's FACEBOOK trademark when registering the disputed domain name in 2022, nearly 15 years after the Complainant registered its Indian trademark for FACEBOOK, and the Panel agrees. This Panel would like to emphasize that knowledge, actual or inferred, of a strong mark is evidence of registration of the disputed domain name in bad faith.

The Panel in this case also finds the following:

(i) The Complainant's FACEBOOK trademarks are well-known internationally and exclusively associated with the Complainant's Facebook platform;

(ii) The Respondent failed to provide any evidence of actual or contemplated good-faith use of the disputed domain name further to the Complainant's cease and desist letter and follow-up email;

(iii) In light of the popularity of the Complainant's services, and sheer volume of Facebook users across the world, the Complainant's users are frequent targets of phishing, online scams, and other criminality. Given the nature of the disputed domain name, which combines the Complainant's trademark with the terms "security" and "mail", the Complainant submits that the disputed domain name carries a risk of implied affiliation with the Complainant's FACEBOOK trademarks. In the circumstances, the Panel finds that there is

no plausible good-faith use to which the disputed domain name could be put that would not have the effect of misleading consumers as to the source or affiliation of the disputed domain name.

(iv) The non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3.

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name was registered and is being used in bad faith by the Respondent.

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 <security-facebook-mail.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: September 15, 2022