

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc., Meta Platforms Technologies, LLC v. 叶昭龙 (Ye Zhao Long)

Case No. D2022-4981

### **1. The Parties**

The Complainants are Meta Platforms, Inc., Meta Platforms Technologies, LLC, United States of America (“U.S”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is 叶昭龙 (Ye Zhao Long), China.

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

The disputed domain names <meta-quest.live>, <meta-quest.plus>, <meta-quest.site>, <meta-quest.top>, and <meta-quest.vip> are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2022. On December 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 29, 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 (Unknown) and contact information in the Complaint. On January 3, 2023, the Center provided the Complainants the registrant and contact information disclosed by the Registrar and invited the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on January 6, 2023.

On January 3, 2023, the Center sent an email communication to the Parties in English and Chinese regarding the language of the proceeding. The Complainants confirmed the request that English be the language of the proceeding on the same day. The Respondent did not comment 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 the Respondent in English and Chinese of the Complaint, and the proceedings commenced on January 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 1, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on February 8, 2023. 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 Complainants are Meta Platforms, Inc. and Meta Platforms Technologies, LLC.

##### (1) Meta Platforms, Inc.

Meta Platforms, Inc. ("MPI"), is a U.S. social technology company which operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), Portal, and WhatsApp. MPI, formerly known as Facebook Inc., announced its change of name to Meta Platforms, Inc. on October 28, 2021, and this was publicized worldwide including in China.

MPI's focus is to bring the metaverse to life and help people connect, find communities and grow businesses. MPI has since published press releases internationally, including in China, regarding the Complainant's launch of its META trade mark.

The Complainants produced evidence showing that MPI is the registered owner of the META trade mark in, for instance, Andorra and Monaco:

- Andorran Trade Mark Registration No. 43626, registered on January 3, 2022; and
- Monaco Trade Mark Registration No. 2200039, registered on February 8, 2022.

MPI is the registrant of numerous domain names consisting of or including the META trade mark under a range of generic Top-Level Domains ("gTLDs") such as <workplacefrommeta.com>, <facebookfrommeta.com>, <instagramfrommeta.com>, <jobsatmeta.com>, <meta.com>, <meta.day>, and <meta.new>.

##### (2) Meta Platforms Technologies, LLC

The Complainants state that Meta Platforms Technologies, LLC ("MPT") is the intellectual property rights holder for various technologies owned by MPI. MPT was formerly known as Oculus VR, LLC. Subsequently in 2018, it changed its name to Facebook Technologies, LLC. Currently, MPT markets and offers virtual reality ("VR") products, including "Meta Quest" headsets, via its official website at "www.meta.com/gb/en/quest".

The Complainants produced evidence showing that MPT is the registered owner of the Chinese Trade Mark Registration No. 33818197 for QUEST, registered on June 14, 2019.

The Complainants state that they have made substantial investments to develop a strong presence online by being active on various social media platforms, including Facebook, Twitter and LinkedIn. They have over 73 million "Likes" on its official Facebook page and 13.9 million followers on Twitter.

The disputed domain names were registered on February 2, 2022, and at the time of filing the Complaint, resolved to inactive websites, save for <meta-quest.top> which redirected to a parking page that listed this disputed domain name for sale. All of the disputed domain names are listed for sale on the <sedo.com> domain name sales platform.

On December 8, 2022, the Complainants' lawyers, in an attempt to resolve the matter amicably, submitted notices via the Registrar's registrant contact form for each of the disputed domain names. No response was received.

## 5. Parties' Contentions

### A. Complainant

1. The disputed domain names are confusingly similar to the Complainants' META and QUEST trade marks in which the Complainants have rights. Each of the disputed domain names incorporate both META and QUEST trade marks in their entirety, with the addition of a hyphen.
2. The Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is not using the disputed domain names in connection with any *bona fide* offering of goods or services. The Respondent is not a licensee of the Complainants nor affiliated with the Complainants in any way. The Complainants have not granted any authorization for the Respondent to make use of the META and QUEST trade marks, in a domain name or otherwise. None of the disputed domain names resolved to an active website. Non-use of a domain name does not amount to use of a domain name in connection with any *bona fide* offering of goods or services. The disputed domain name <meta-quest.top> redirected to a Dan.com parking page which listed it for sale. Merely parking a domain name for sale does not amount to a *bona fide* offering of goods or services and does not give rise to rights or legitimate interests.
3. There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services. Further, the disputed domain names are offered for sale on Sedo.com. The combination of the terms "meta" and "quest" is not common and it can be inferred that the Respondent registered the disputed domain names opportunistically with the knowledge of the Complainants' then-recent rebranding, with a view to deriving profit from the resale of the disputed domain names to the Complainants or to a competitor of the Complainants. Such use of the disputed domain names seek to capitalize on the goodwill and reputation of the Complainants' trade marks and does not amount to a *bona fide* offering of goods or services.
4. The Respondent is not commonly known by the disputed domain names nor is there evidence of the Respondent having acquired or applied for trade mark registrations for META-QUEST or any variation thereof.
5. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names. The Respondent's listing of the disputed domain names for sale signals an intent on his part to derive commercial gain from the resale of the disputed domain names, which does not amount to legitimate noncommercial or fair use.
6. The disputed domain names were registered and are being used in bad faith. Despite the relatively recent re-naming of the Complainants from Facebook to Meta Platforms, the Complainants' META trade mark is already well known throughout the world and closely associated with the Complainants. The Complainants' renaming attracted significant international media attention, including in China where the Respondent is located. Despite the Complainants' services being blocked in China, the Complainants have received substantial media attention such as on Baidu. UDRP panels in prior cases have recognized the strength and renown of the Complainants' META and QUEST trade marks and have ordered the transfer of other domain names in dispute to the Complainants. The disputed domain names were registered only a few months after the Complainants' rebranding from Oculus Quest to Meta Quest which was widely publicized in late October 2021. The Respondent cannot credibly argue that it did not have knowledge of the Complainants' META and QUEST trade marks.

7. The Respondent has engaged in a pattern of abusive domain name registrations involving other domain names which incorporate the QUEST trade mark, as well as other third-party famous trade marks such as BAIDU, BMW, CHANEL, GOOGLE, HUAWEI, and HUGO BOSS.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreements for the disputed domain names is Chinese. The Complainants requested that the language of the proceeding be English for the primary reason that the circumstances show that the Respondent can understand the English language. In particular:

- (i) The disputed domain names comprise the Complainants' META and QUEST trade marks and the term "quest" is also an English term.
- (ii) The disputed domain names are registered under the gTLDs ".live", ".plus", ".site", ".top", and ".vip", all of which comprise English terms.
- (iii) The Complainants are U.S. corporations, whose main operating language is English, and it would be disproportionate to require the Complainants to submit the Complaint in Chinese. It would cause the Complainants to incur substantial additional costs, resulting also in unwarranted delay in the proceeding.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) states the following:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement."

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he is probably familiar with and understands the English language, taking into account the incorporation of the Complainants' trade marks and English terms. The Panel also draws an inference of the Respondent's likely knowledge of the English language by his previous registration of other domain names which contain English terms, namely, <baiducoin.group>, <bmw center.cn>, <cocochanel.store> and <freshgoogle.com>. The Respondent had, moreover, been notified by the Center, in both Chinese and English language, of the commencement of the proceeding, the language of the Registration Agreements, and deadline for filing a Response. He therefore had ample opportunity to object and/or propose to submit his Response in Chinese but did not do so. In the absence of any rebuttal argument or justification therefor by the Respondent, the Panel does not find it procedurally efficient to have the Complainants translate the Complaint into Chinese.

## **6.2 Substantive Issues**

### **A. Identical or Confusingly Similar**

The Complainants have established they have rights in the META and QUEST trade marks. The disputed domain names comprise of both trade marks with the addition of a hyphen. The inclusion of the hyphen does not avoid confusing similarity with the Complainants' trade marks that are recognizable within the disputed domain names. (See [WIPO Overview 3.0](#), section 1.7, 1.8.)

The gTLDs ".live", ".plus", ".site", ".top", and ".vip" are a technical requirement for domain name registrations and do not have any impact when considering the first element of the Policy, and are generally disregarded on the issue of the identity or confusing similarity between the disputed domain names and the Complainants' trade marks. (See [WIPO Overview 3.0](#), section 1.11.1.)

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

### **B. Rights or Legitimate Interests**

The Panel finds that the Complainants have established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainants' registrations and widely and internationally-publicized rebranding and/or adoption of the META and QUEST trade marks predate the registration date of the disputed domain names. The Complainants did not license nor authorize the Respondent to use the trade marks META and/or QUEST in a domain name. Neither is there any evidence that the Respondent is commonly known by the name "Meta-quest" or any of the disputed domain names. The passive holding of the disputed domain names which incorporate the Complainants' well-known trade marks does not constitute a legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraph 4(c)(iii) of the Policy. The Respondent's choice of a combination of famous trade marks associated with the Complainants show a clear intent to obtain an unfair commercial gain, with a view to misleadingly divert consumers looking for the Complainants.

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain names. The Respondent did not file a Response in the present case to rebut the Complainants' assertions and evidence.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

### **C. Registered and Used in Bad Faith**

The Panel is persuaded in the circumstances of this case that the Respondent targeted the Complainants

and their well-known META and QUEST trade marks. There is no other reason for the Respondent to have registered the disputed domain names except for the sole purpose of riding off the reputation and goodwill in the Complainants' META and QUEST trade marks and to create confusion with the Complainants' META and QUEST trade marks and business:

"If [...] circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant's trademark, e.g., through links to the complainant's competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, [...] Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner." (See section 3.1.1 of the [WIPO Overview 3.0](#).)

The passive holding of the disputed domain names do not prevent a finding of bad faith. In this case and in accordance with the relevant factors set out in section 3.3 of the [WIPO Overview 3.0](#), the Panel finds that there has been bad faith registration and use. The factors and circumstances which support the finding include the following:

- (i) the degree of distinctiveness or reputation of the Complainants' marks;
- (ii) the Respondent's likely knowledge of the Complainants and their rights in the META and QUEST trade marks;
- (iii) the failure of the Respondent to submit a Response or provide any evidence of actual or contemplated good-faith use; and
- (iv) the implausibility of any good faith use to which the disputed domain names may be put.

The Panel also draws an adverse inference from the apparent pattern of abusive domain name registrations. It can be surmised that the Respondent fully appreciated the value associated with the META and QUEST trade marks, which is why he registered the disputed domain names that are a combination of these trade marks. He hoped to draw Internet traffic and cause confusion among Internet users who may be searching for the Complainants' products or services. The Panel therefore concludes that the Respondent has registered and is using the disputed domain names in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been satisfied.

## 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 <meta-quest.live>, <meta-quest.plus>, <meta-quest.site>, <meta-quest.top>, and <meta-quest.vip> be transferred to the Complainant, Meta Platforms, Inc., in accordance with the requested remedy stated in the Complaint.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: February 17, 2023