

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. PJF Koopman
Case No. DGD2023-0001

1. The Parties

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

The Respondent is PJF Koopman, Netherlands.

2. The Domain Name and Registrar

The disputed domain name <facebook.gd> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2023. On March 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2023, 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 March 31, 2023.

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 April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2023.

The Center appointed Peter Burgstaller as the sole panelist in this matter on May 19, 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 Complainant operates the world-famous Facebook social networking website and mobile application in various languages (Annex 5, 6, 7 and 9 to the Complaint).

The Complainant is the owner of numerous trademark registrations containing the word FACEBOOK around the world, *inter alia*:

- U.S. Registrations No. 3,122,052, for services in class 38, registered since July 25, 2006 and Registration No. 3,041,791, for services in class 38, registered January 10, 2006 with first use in commerce February 4, 2004 (Annex 10 to the Complaint);
- European Union Registration No. 5585518, registered since May 25, 2011 for services in classes 35, 41, 42 and 45;
- International Registration No. 1075094, for goods and services in classes 9, 35, 36, 38, 41, 42 and 45, registered since July 16, 2010, designated for various countries around the world (Annex 10 to the Complaint).

Moreover, the Complainant owns a number of domain names containing the mark FACEBOOK e.g. <facebook.com>, <facebook.biz>, <facebook.us>, <facebook.ca>, and <facebook.eu> (Annex 8 to the Complaint).

The disputed domain name was registered on October 14, 2013 (Annex 2 to the Complaint); it resolved to a parking page provided by “Hostinger”. The Complainant has provided evidence showing that at least since August 2015 the disputed domain name has not been used to resolve to a website with any substantive content or as email-address. Currently, the disputed domain name resolves to an inactive web page (Annex 11 and 12 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant is a United States social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), and WhatsApp. The Complainant's focus is to bring the metaverse to life and to help people connect, find communities and grow businesses.

Founded in 2004, the Complainant's Facebook platform (Facebook) is a leading provider of online social-media and social-networking services. The Complainant's mission is to give people the power to build community and bring the world closer together. People use the Facebook platform to stay connected with friends and family, to discover what is going on in the world, and to share and express what matters to them.

The Complainant's FACEBOOK trademark is currently one of the most famous online trademarks in the world. In 2022, the FACEBOOK brand ranked 17th in Interbrand's Best Global Brands report.

The Complainant has also made substantial investments to develop a strong presence online by being active on various social-media platforms. For instance, the Complainant's official page on Facebook has over 78.9 million “likes”. In addition, the Complainant has 13.9 million followers on Twitter. In addition to its strong online presence, the Complainant has secured ownership of numerous trademark registrations for FACEBOOK in many jurisdictions throughout the world.

The disputed domain name is identical to the Complainant's FACEBOOK mark since it contains the FACEBOOK mark in its entirety and only adds the country code Top-Level Domain (“ccTLD”) “.gd” which may be disregarded for the purposes of assessment under the first element, as it is a standard requirement of registration.

The Respondent has no rights or legitimate interests in respect of the disputed domain name: The Respondent is not a licensee of the Complainant. The Respondent is not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its FACEBOOK trademark, in a domain name or otherwise. Moreover, the Respondent is not commonly known by the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered and is being used in bad faith: The Respondent could not credibly argue that it did not have prior knowledge of the Complainant's FACEBOOK trademark at the time of registration of the disputed domain name in October 2013, by which time the Complainant's social network had already amassed 1.19 billion monthly active users.

Although there being no evidence of the Respondent's substantive use of the disputed domain name, the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding, especially if the disputed domain name consists of a well-known and famous trademark and because of the identical reproduction of the Complainant's trademark there is a high risk of implied affiliation with the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that

- (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 with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant submitted evidence, which incontestably and conclusively establishes rights in the trademark FACEBOOK.

The disputed domain name is identical to the Complainant's registered trademark FACEBOOK since it entirely contains this mark.

It has long been established under UDRP decisions that ccTLDs are generally disregarded when evaluating the confusing similarity of a disputed domain name.

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

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with

relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Here, the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent.

Furthermore, the nature of the disputed domain name, comprising the Complainant's famous and distinctive mark in its entirety, cannot be considered fair as these falsely suggest an affiliation with the Complainant that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

Noting the above, and in the absence of any Response or allegations from the Respondent, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As stated in many decisions rendered under the Policy (e.g. *Robert Ellenbogen v. Mike Pearson*, WIPO Case No. [D2000-0001](#)) both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith, and
- the disputed domain name is being used by the Respondent in bad faith.

The Complainant has rights and is the owner of the well-known, famous and highly distinctive registered trademark FACEBOOK, which is registered and used in many jurisdictions around the world for years. Moreover, the Complainant registered and is using various domain names containing the mark FACEBOOK e.g. <facebook.com>, <facebook.eu> among others.

It is inconceivable for this Panel that the Respondent registered the disputed domain name without knowledge of the Complainant's rights which were established long before the registration of the disputed domain name; these facts lead to the necessary inference of bad faith. This finding is supported by the fact that the disputed domain name incorporates the Complainant's distinctive trademark FACEBOOK entirely.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

The disputed domain name is also being used in bad faith: Although there is no evidence that the disputed domain name is being actively used or resolved to a website with substantive content, previous UDRP panels have found that bad faith under paragraph 4(a)(iii) does not necessarily require a positive act on the part of the respondent – the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith, since also inaction is within the concept or paragraph 4(a)(iii) under the doctrine of passive holding (see especially *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#)).

This Panel concludes that the disputed domain name is being used in bad faith, putting emphasis on the following:

- the Complainant's trademark FACEBOOK is famous with a high distinctiveness and is well-known globally;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the disputed domain name is inherently misleading, and is thus suited to divert or mislead potential web users from the website they are actually trying to visit (the Complainant's site); and

- there is no conceivable plausible good faith use with regard to the disputed domain name.

Taking all these facts and evidence into consideration this Panel finds that the disputed domain name has been registered and used 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 <facebook.gd> be transferred to the Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: June 2, 2023