

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. 范细女 (Xi Nv Fan)

Case No. D2022-0493

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 范细女 (Xi Nv Fan), China.

2. The Domain Names and Registrar

The disputed domain names <facenook.top>, <faceook.top>, <facrbook.top>, <facwbook.top>, <faebook.top>, <favebook.top>, <fcebook.top>, and <fscebook.top> are registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 11, 2022. On February 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 15, 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 the Complainant on February 16, 2022, 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 in English on February 17, 2022.

On February 16, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On February 17, 2022, the Complainant submitted its request that English be the language of the proceeding. 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 proceeding commenced on February 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 16, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on March 23, 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

A. Complainant

The Complainant (formerly known as Facebook, Inc.) is a company founded in the United States in 2004, and one of the world’s leading providers of online social networking services, under the trade mark FACEBOOK (the “Trade Mark”).

The Complainant’s “www.facebook.com” website is currently ranked 7th in the world, and the Complainant’s Facebook app is the third most downloaded app in the world. The Trade Mark is ranked 15th in Interbrand’s current Best Global Brands report.

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including United State registration No. 3,122,052, registered on July 25, 2006; and International registration No. 1075094 (designating various jurisdictions, including China), registered on July 16, 2010.

The Complainant is the owner of numerous domain names comprising the Trade Mark, under generic and country code Top-Level Domains, including <facebook.com>, <facebook.org>, and <facebook.net>.

B. Respondent

The Respondent is apparently an individual resident in China.

C. The Disputed Domain Names

The disputed domain names were each registered on the same date, namely, June 29, 2021.

D. The Websites at the Disputed Domain Names

Each of the disputed domain names has resolved to English language parking pages with sponsored commercial links, including an offer for sale for the price of USD 1,380 (the “Websites”).

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the Trade Mark, the Respondent has no rights or legitimate interests in respect of the disputed domain names, and the disputed domain names were registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11, in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burden being placed on the parties and undue delay to the proceeding.

The Complainant has requested that the language of the proceeding be English, for several reasons, including the fact each of the Websites is an English language website.

The Respondent did not file a Response and did not file any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

The Panel finds there is sufficient evidence to suggest the likely possibility that the Respondent is conversant in the English language.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

In all the circumstances, the Panel therefore finds it is not foreseeable that the Respondent would be prejudiced, should English be adopted as the language of the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Marks acquired through use and registration.

Each of the disputed domain names consists of a common, obvious, or intentional misspelling of the Trade Mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9).

The Panel therefore finds that the disputed domain names are confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain names or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain names or that the disputed domain names have been used in connection with a *bona fide* offering of goods or services.

To the contrary, the disputed domain names have been resolved, for commercial gain, to parking pages with sponsored links, including offers to sell the disputed domain names for USD 1,380.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain names.

There has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names.

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

C. Registered and Used in Bad Faith

In light of the manner of use by the Respondent of the disputed domain names, the Panel finds that bad faith has been made out under paragraphs 4(b)(iv) and 4(b)(i) of the Policy.

The Panel finds that, in light of the worldwide repute of the Trade Mark, it is inconceivable that the Respondent was not aware of the Complainant and of its rights in the Trade Mark at the time of registration of the disputed domain names.

The Panel also finds that, in light of the repute of the Trade Mark, and on the evidence herein, there cannot be any actual or contemplated good faith use of the disputed domain names, incorporating typo-variations of the Trade Mark, by the Respondent. Moreover, in these circumstances the direction of the disputed domain names to the Websites, which contain sponsored links and offers to sell the disputed domain names, supports a finding of bad faith.

For all the foregoing reasons, the Panel concludes that the disputed domain names have been registered and are being used in bad faith.

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 <facenook.top>, <faceook.top>, <facrbook.top>, <facwbook.top>, <faebook.top>, <favebook.top>, <facebook.top>, and <fscebook.top> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: April 6, 2022