

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Whols Protected

Case No. D2022-4370

1. The Parties

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

Respondent is Whols Protected, US.

2. The Domain Name and Registrar

The disputed domain name <facebooklikesreviews.com> (the “Domain Name”) is registered with DNC Holdings, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 16, 2022. On November 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 18, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on November 21, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 23, 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 Respondent of the Complaint, and the proceedings commenced on November 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 14, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 15, 2022.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on December 21, 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

Complainant operates the Facebook social networking website and mobile application. Complainant enables its users to create personal profiles and connect with each other on their personal computers and mobile devices. Complainant has more than one billion daily active accounts and over two billion monthly active users from all over the world. Approximately 85 percent of the daily active users are outside the United States and Canada. Complainant's social networking services are provided in more than 70 languages. The Facebook "app" is also available for mobile devices, and in recent years has consistently ranked among the top apps in the market.

Facebook users can interact with posts on Facebook by selecting the "like" button icon to "like" a post. Complainant also provides "paid likes" for Facebook pages, which are counted as paid if they occur within certain periods. Complainant provides information on its website about avoiding "fake likes," which are described as "external services that sell packages of likes from fake accounts or people without real intent by offering a certain number of likes for a flat fee." Fake "like" peddlers tempt with offers to "buy 10,000 likes!" or other similar schemes. Complainant's abuse-fighting team detects and counters such fraudulent activity by blocking accounts and removing fake likes. The sale of fake likes harms Complainant's ability to ensure that the connections between businesses and people on the Facebook platform are genuine.

In addition to the <facebook.com> domain name, Complainant owns and operates numerous other domain names consisting of the FACEBOOK mark, including <facebook.org> and <facebook.net>.

Complainant owns the exclusive rights to the FACEBOOK trademarks, which it has used since 2004. The FACEBOOK mark ranked 15th in Interbrand's current Best Global Brands report. The mark is famous and recognized around the world. In addition to common law rights in the FACEBOOK mark, Complainant owns numerous registrations protecting the mark in the United States and around the world. Several of Complainant's United States Registrations for the FACEBOOK mark are detailed below:

Mark	Jurisdiction	Filing Date	Reg. Date	Reg. No.
FACEBOOK	US	February 24, 2005	July 25, 2006	3,122,052
FACEBOOK	US	June 29, 2006	November 23, 2010	3,881,770
FACEBOOK	US	October 7, 2010	November 26, 2013	4,441,540

Complainant also owns international trademark registrations and European Union Trade Mark registrations for the FACEBOOK mark.

The Domain Name was registered on April 13, 2022, which postdates the registration and use of the FACEBOOK mark by many years. The Domain Name resolved to a website through which Respondent promotes various commercial services purporting to sell Facebook likes. Some of the contact information for the Domain Name registration appears to be false, such as, the zip code and phone number.

A. Complainant

(i) Identical or confusingly similar

Complainant states its use of the FACEBOOK mark in the US and throughout the world has been extensive, continuous, and substantially exclusive. Complainant has made, and continues to make, a substantial investment of time, effort, and expense in the promotion of its goods and services and the FACEBOOK mark. As a result, the FACEBOOK mark is inextricably linked with the products and services offered by

Complainant. Complainant's states its common law trademark rights from extensive use of the FACEBOOK mark, along with its multiple national trademark registrations, satisfy the first element of the Policy. Complainant contends the Domain Name, which incorporates Complainant's FACEBOOK mark and adds the words "likes" and "reviews," is confusingly similar to Complainant's mark. The Domain Name misappropriates the textual components from Complainant's FACEBOOK mark, such that an ordinary Internet user who is familiar with the mark would, upon seeing the Domain Name, think an affiliation exists between that Domain Name and Complainant and its FACEBOOK mark. Accordingly, the Domain Name reproduces Complainant's exact FACEBOOK mark and adds words that do not remove the confusing similarity between the Domain Name and the mark, especially as the word "likes" is descriptive of and relevant to Complainant's services.

Additionally, Complainant submits that in some instances, panels have taken note of the content of the website associated with a domain name to confirm confusing similarity where it appears *prima facie* that the Respondent seeks to target a trademark through the disputed domain name. Here, the content found on the website at the Domain Name specifically promotes commercial services that purportedly sell Facebook likes. The website also prominently displays Complainant's FACEBOOK mark and a variation of its "f" logo. This further evidences that Respondent is targeting Complainant's mark and expects consumers to believe that an affiliation exists between the site identified by the Domain Name and Complainant.

Accordingly, Complainant concludes the Domain Name is confusingly similar to Complainant's FACEBOOK mark under the Policy.

(ii) Rights or legitimate interests

Complainant contends that Respondent has no rights or legitimate interests in the Domain Name. Complainant has not licensed or authorized Respondent to use Complainant's FACEBOOK mark, nor does Respondent have any legal relationship with Complainant that would entitle Respondent to use the mark. Further, the Whois data for the Domain Name does not support that Respondent is known by the Domain Name. Additionally, Complainant, who monitors use of its FACEBOOK mark, is not aware of Respondent being known by the Domain Name in any other way. Respondent has no legitimate reason for using the FACEBOOK mark within the Domain Name.

Instead, Respondent is using the Domain Name to falsely associate with Complainant by hosting a website promoting various commercial services purporting to sell Facebook likes – something Complainant would never authorize. Complainant considers this activity to be fraudulent and has taken measures to detect and shut down the use of these fake likes on Facebook.

Thus, Complainant asserts Respondent cannot demonstrate that, before any notice of dispute, it used the Domain Name in connection with a *bona fide* offering of goods or services. Instead, the Domain Name is currently used to falsely associate with Complainant and host a website promoting various commercial services that purportedly sell Facebook likes. The website prominently uses Complainant's FACEBOOK mark and a variation of its "f" logo in connection with this commercial activity. The website even describes itself as the "Facebook marketing guide." In actuality, however, the links provided on the website direct users to webpages unrelated to Complainant or download files on users' devices. The website also includes a "Contact us" form that induces users to enter personal information including name and email address. This use is not a use in connection with a *bona fide* offering of goods or services within the meaning of the Policy.

Complainant states that its brand guidelines expressly prohibit the use of its marks in this manner, by stating: "You may not use or register, or otherwise claim rights in any Meta trademark, including as or as part of any trademark, service mark, company name, trade name, username or domain registration." Complainant's terms of service further state that "You may not use our Products to do or share anything...[t]hat is unlawful, misleading, discriminatory or fraudulent (or assists someone else in using our Products in such a way)." Respondent's registration of the Domain Name and use of the FACEBOOK mark in the Domain Name is a clear violation of these terms. Prior panels have specifically found that offering services that breach a complainant's terms and conditions of use is not a use in connection with a *bona fide* offering of goods or

services. Complainant's community standards for Facebook expressly prohibit users from engaging in inauthentic behavior and using Facebook assets to mislead users "[a]bout the popularity of Facebook or Instagram content or assets." Here, Respondent is promoting various commercial services that purportedly sell Facebook likes, thereby misleading others into believing the concerned content or assets are more popular than they are. Thus, Respondent is engaging in conduct explicitly prohibited by Complainant's guidelines. This is not a *bona fide* use under the Policy.

In addition, Complainant states Respondent does not appear to be commonly known by the Domain Name. The Whois data for the Domain Name does not identify a person or company commonly known by the Domain Name. Respondent was identified by the Registrar in its verification process as "Whois Protected" – this name does not resemble the Domain Name in any way. Respondent cannot therefore make any claims of being known by the Domain Name.

The Domain Name is currently being used in connection with a website promoting commercial services purporting to sell Facebook likes, and therefore Respondent's use is commercial in nature. Moreover, Respondent's commercial objective is achieved by diverting traffic from consumers searching for Complainant, and by using Complainant's FACEBOOK mark and a variation of its "f" logo to promote services that assist these consumers in engaging in fraudulent activity on Facebook. Such use is not a legitimate noncommercial or fair use under the Policy.

(iii) Registered and used in bad faith

Complainant submits Respondent's conduct plainly evidences the bad faith registration and use of the Domain Name under the Policy. The Domain Name contains Complainant's exact FACEBOOK mark, and is used to host a commercial website that prominently uses Complainant's FACEBOOK mark and a variation of its "f" logo in connection with promoting various commercial services purportedly selling Facebook likes. This conduct evidences Respondent's awareness of Complainant and its marks at the time of registration. Complainant contends the only reason for Respondent's registration of the Domain Name, which includes the FACEBOOK mark, is to create a likelihood of confusion with Complainant and its marks as to the source, sponsorship, affiliation, or endorsement of Respondent's website with Complainant. Respondent is plainly targeting Complainant and is using the Domain Name in bad faith for commercial gain.

Here, Respondent has registered a Domain Name that is confusingly similar to Complainant's FACEBOOK mark. Respondent registered the Domain Name on April 13, 2022, which postdates the registration and use of the FACEBOOK mark by many years. Complainant contends there can be no doubt Respondent was aware of Complainant's trademark rights at the time of registration. Because the FACEBOOK mark is so obviously connected with Complainant and its well-publicized services and mobile application, and the Domain Name clearly references this mark, the registration and use of the Domain Name by Respondent, who has no connection with Complainant, supports a finding of bad faith under the Policy.

Respondent's bad faith under the Policy is further evidenced by Respondent's registration of another domain name that infringed the rights of a famous and distinctive trademark owner. See *F. Hoffmann-La Roche AG v. Whois Protected*, WIPO Case No. [D2009-1569](#) (ordering transfer of the domain name <tamiflu-kaufen.org> from the respondent "Whois Protected" to the complainant). Moreover, given the fame of Complainant's FACEBOOK mark, and Respondent's unauthorized incorporation of the mark into the Domain Name, there are no circumstances under which Respondent's use of the Domain Name could plausibly be in good faith under the Policy. Further, the presence of a disclaimer on Respondent's website indicates Respondent is fully aware of Complainant's FACEBOOK mark and the confusion caused by the Domain Name, and cannot cure Respondent's bad faith.

Accordingly, Complainant concludes that Respondent registered and is using the Domain Name with bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. Those elements are as follows:

- (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

A. Identical or Confusingly Similar

The Panel determines that Complainant has demonstrated well-established rights in its FACEBOOK trademark, through both extensive registration and widespread use around the world. See *e.g.*, *Facebook, Inc. v. Andre Schneider / DomCollect AG*, WIPO Case No. [D2013-1183](#) ("Complainant's trademark is well-known worldwide").

The Panel further finds that the Domain Name is confusingly similar to Complainant's FACEBOOK mark. The Domain Name incorporates the FACEBOOK mark in its entirety, with the placement of this mark in the dominant position at the beginning of the relevant Domain Name, followed by the words "likes" and "reviews". The addition of these words does not prevent a finding of confusing similarity in this case. Numerous UDRP decisions make clear that the addition of other terms does not prevent a finding of confusing similarity. See WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7 ("where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.").

In conclusion, the Panel finds that the Domain Name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. Accordingly, Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, Complainant must prove that Respondent has no rights or legitimate interests in respect of the Domain Name. A complainant is normally required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Here, the Panel finds that Complainant has made out a *prima facie* case. Complainant has indicated that Respondent has no legitimate interest in the confusingly similar Domain Name because it fully incorporates Complainant's well-known FACEBOOK trademark; that Respondent has no legitimate interest when the Domain Name falsely suggests affiliation with the trademark owner; that Complainant has not authorized, licensed, or otherwise permitted Respondent to use the FACEBOOK trademark; that Complainant does not have any type of business relationship with the Respondent; that Respondent is not known by the Domain Name; and that Respondent has used the Domain Name for fraudulent activity to sell fake "likes" for the Facebook platform. See *Facebook, Inc. and Instagram, LLC v. Adam Szulewski*, (no rights or legitimate interests where the website associated with the disputed domain name offered for sale "likes,"); *Bytedance Ltd. v. Whois Agent (389631871)*, *Whois Privacy Protection Service, Inc. / Victor Hugo*, WIPO Case No.

[D2020-3503](#) (respondent's use of the disputed domain name to operate a website claiming to provide "likes" and "views" "may be fraudulent and is not a *bona fide* offering of goods or services"); see also [WIPO Overview 3.0](#), at section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent"). The presence of the disclaimer on the Domain Name does not render the Respondent's activities *bona fide*, because of the services offered on the Domain Name, assisting consumers in engaging in fraudulent activity on Complainant's website.

Accordingly, for all of the above reasons, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interests in respect of the Domain Name, which has not been rebutted by Respondent. The Panel therefore finds that Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Names in bad faith. [WIPO Overview 3.0](#), section 3.1, states "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark".

For the reasons discussed under this and the preceding heading, the Panel considers that Respondent's conduct in this case constitutes bad faith registration and use of the Domain Name within the meaning of paragraph 4(a)(iii) of the Policy. It is evident that Respondent was aware of Complainant and its FACEBOOK trademark, and targeted that mark when registering the Domain Name. See *Asurion, LLC v. Cindy Willis*, WIPO Case No. [D2018-2643](#) ("The Panel first finds it more likely than not the Respondent had Complainant's inherently distinctive – and well-known – ASURION mark in mind when registering Domain Name."); *Facebook, Inc. v. Ricky Bhatia*, WIPO Case No. [D2017-2542](#) (citing multiple previous panel decisions that found bad faith because the Facebook Mark is "such a famous mark" that "it would be inconceivable" that a respondent might register the mark without knowing of it).

Further, Respondent's use of the Domain Name to sell fake likes amounts to bad faith use. See, e.g., *Facebook, Inc. Instagram, LLC WhatsApp Inc. v. Osbil Technology Ltd*, WIPO Case No. [D2018-2906](#) (finding bad faith where a number of the domain names were pointing or previously pointed to websites purportedly selling or providing for free Facebook likes); *Adam Szulewski, supra* (the resolving websites offered for sale "likes," which indicated that the respondent was targeting the complainant and using the disputed domain name in bad faith for commercial gain).

Although Respondent had a disclaimer on its website, this does not excuse its use of the Domain Name in this manner. See [WIPO Overview 3.0](#), at section 3.7 ("[W]here the overall circumstances of a case point to the respondent's bad faith, the mere existence of a disclaimer cannot cure such bad faith. In such a case, panels may consider the respondent's use of a disclaimer as an admission by the respondent that users may be confused"); see also *Carrefour v. Whois Agent, Whois Privacy Protection Service Inc. / Andres Saavedra*, WIPO Case No. [D2016-0608](#) (a disclaimer "clearly indicates full knowledge" of the trademark and "does not serve to remove any likelihood of confusion").

In conclusion, the Panel determines that, for all of the above reasons, the Domain Name was registered and is being used in bad faith. Accordingly, Complainant has satisfied the third element 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 Domain Name, <facebooklikesreviews.com>, be transferred to Complainant.

/Christopher S. Gibson/

Christopher S. Gibson

Sole Panelist

Date: January 10, 2023