

## **ADMINISTRATIVE PANEL DECISION**

### **Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Libin Case No. D2022-4996**

#### **1. The Parties**

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

Respondent is Libin, U.S.

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

The disputed domain names <metaquest.horse> and <metaquest.onl> (the “Domain Names”) are registered with Dynadot, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 27, 2022. On December 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On December 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to Complainant on December 29, 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 January 3, 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 Respondent of the Complaint, and the proceedings commenced on January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 27, 2023.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on February 2, 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**

Complainant, Meta Platforms, Inc. (“Meta”), is a U.S. social technology company operating, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), Portal, and WhatsApp. On October 28, 2021, Complainant, formerly known as Facebook Inc., made a worldwide announcement that it was changing its name to Meta Platforms Inc.

Complainant, Meta Platforms Technologies, LLC (“MPT”) is the intellectual property rights holder for various technologies owned by Meta. MPT initially operated under the corporate name of its predecessor in interest, Oculus VR, LLC, and then changed its name to Facebook Technologies, LLC in 2018. Acquired by Meta in March 2014, Oculus quickly became well known and developed goodwill worldwide in connection with its virtual reality (“VR”) software and apparatus. Complainant distributes or previously distributed various VR headsets, formerly known as “Oculus Rift S” as well as “Oculus Quest” and its successor “Oculus Quest 2”. Released on September 16, 2020, Oculus Quest 2 was the only VR headset offered for sale by Oculus, with at least 10 million units shipped worldwide in November 2021, making it one of Oculus’ most popular headsets. Moreover, Complainant announced the change of the name of its VR headsets from “Oculus Quest” to “Meta Quest” in October 2021.

Complainant owns numerous domain names consisting of or including the META Mark under a wide range of generic Top-Level Domains (“gTLDs”) as well as under numerous country code Top-Level Domains (“ccTLDs”).

Complainant has also made substantial investments to develop a strong presence online by being active on various social-media platforms, including Facebook, Twitter, and LinkedIn. For instance, Meta’s official page on Facebook has over 76 million “likes” and more than 13 million followers on Twitter.

Complainant owns numerous trademark registrations for the META Mark and the QUEST Mark (collectively, the “Marks”) in jurisdictions throughout the world, including but not limited to the following: U.S. Registration No. 5,548,121 (META), registered on August 28, 2018 and assigned to Complainant on October 26, 2021; Andorran Trademark Registration No. 43626 (META), registered on January 3, 2022; Chinese Trademark Registration No. 33,818,197 (QUEST), registered on June 14, 2019; European Union Trade Mark No. 017961685 (QUEST), registered on June 16, 2020; and U.S. Registration No. 6,279,215 (QUEST), registered on February 23, 2021.

The Domain Names were both registered on February 2, 2022. When the Complaint was filed, the Domain Names redirected to parking pages listing the Domain Names for sale – <metaquest.horse> was listed with a buy-now price of EUR 5,888 and <metaquest.onl> was listed with a buy-now price of EUR 888. To resolve this matter, on November 24, 2022, Complainant’s counsel submitted notices via the Registrar’s registrant contact form for each of the Domain Names. No response was received.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant owns numerous trademark registrations for the Marks throughout the world, thus, Complainant has established trademark rights for purposes of the Policy. The Domain Names incorporate Complainant’s META Mark and QUEST Mark in their entirety under the gTLDs “.horse” and “.onl”. This is sufficient to establish confusing similarity between the Domain Names and the Marks. Adding the gTLDs “.horse” and

“.onl” may be disregarded for the purposes of assessing confusing similarity, as a gTLD is a standard requirement of registration.

Complainant has not licensed or otherwise granted Respondent any authorization to use the Marks in the Domain Names or for any other purpose. And, Respondent is not affiliated with Complainant in any way. Respondent cannot assert that prior to any notice of this dispute it was using, or had made demonstrable preparations to use, the Domain Names in connection with a *bona fide* offering of goods or services. The Domain Names redirect to parking pages listing them for sale. Merely parking domain names for sale does not amount to using them in connection with any *bona fide* offering of goods or services. Nor is there any evidence of Respondent having made demonstrable preparations to use the Domain Names.

There is no evidence to suggest that Respondent is commonly known by the Domain Names. Respondent’s name, Libin, bears no resemblance to the Domain Names. There is no evidence of Respondent having acquired or applied for any trademark registrations for “METAQUEST” as reflected in the Domain Names. Respondent’s listing of the Domain Names for sale does not support any reasonable claim of being commonly known by the Domain Names, nor does it give rise to any reputation in the Domain Names themselves, independent of Complainant’s trademark rights.

Respondent’s listing of the Domain Names for sale signals an intent on the part of Respondent to derive commercial gain from the resale of the Domain Names. In addition, by reflecting the Marks and Complainant’s product name (Meta Quest) in the Domain Names, the composition of the Domain Names is such that they carry a high risk of implied affiliation with Complainant.

Despite the relatively recent re-naming of Complainant’s company as “Meta Platforms, Inc.”, Complainant’s META Mark is already well known throughout the world and closely associated with Complainant’s goods and services. Complainant’s re-naming also attracted significant international media attention, while Complainant’s services are used by billions of monthly active users across the globe. Complainant’s rebranding from Oculus Quest to Meta Quest was widely publicized in late October 2021, less than four months before Respondent’s registration of the Domain Names in February 2022. When combined, the META and QUEST Marks form a distinctive combination that is readily associated with Complainant. As such, Respondent could not credibly argue that he did not have Complainant’s META and QUEST Marks in mind when registering the Domain Names.

Respondent is or used to be the registrant of other domain names infringing well-known third-party trademarks thus engaging in a pattern of conduct by registering at least six domain names for the purpose of preventing the owners of the trademarks from reflecting their trademarks in corresponding domain names.

In light of the composition of the Domain Names, comprising Complainant’s META Mark and QUEST Mark, which may also be read as a reference to Complainant’s product name “Meta Quest”, and the timing of the registrations, and that the Domain Names are parked and offered for sale, supports the inference that Respondent registered the Domain Names primarily for the purpose of selling, renting, or otherwise transferring them to Complainant, who owns the META and QUEST Marks, or to a competitor of Complainant, for valuable consideration in excess of Respondent’s documented out-of-pocket costs directly related to the Domain Names, in bad faith under the Policy.

Also, in view of the high risk of implied affiliation between the Domain Names and Complainant, the presence of the Domain Names in the hands of Respondent represents an abusive threat hanging over Complainant’s head. Furthermore, the underlying details of Respondent, as disclosed by the Registrar, are false. Respondent’s country does not correspond to the street, post code, city and province. Using incomplete, inaccurate, false, or fictitious contact information in the Whols may constitute evidence of bad faith. And Respondent’s failure to reply to Complainant’s pre-Complaint notice may also be considered an additional indicator of Respondent’s bad faith.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **A. Consolidation of Multiple Complainants**

The Complaint was filed by two Complainants against a single Respondent. Neither the Policy nor the Rules expressly provides for or prohibits the consolidation of multiple complainants. In this regard, section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that:

"In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

Both Complainants form part of the same corporate group. Complainant MPT owns trademark registrations for the QUEST Mark and is a wholly-owned subsidiary of Complainant Meta who owns trademark registrations for the META Mark. As such, the two entities have a sufficient common legal interest in the META and QUEST Marks included in the Domain Names to file a joint Complaint. Also, Meta and MPT have been the target of common conduct by Respondent who has engaged, as discussed below, in bad faith registration and use of the Domain Names comprising the Marks.

The Panel finds that Meta and MPT have a common grievance against Respondent and it is equitable and procedurally efficient to permit the consolidation of their complaints. Therefore, the Complainants are referred to collectively as "Complainant" below except as otherwise indicated.

### **B. Identical or Confusingly Similar**

It is uncontroverted that Complainant has established rights in the META and QUEST Marks based on the aforementioned trademark registrations for them.

Furthermore, the Domain Names are confusingly similar to the META and QUEST Marks insofar as both Domain Names incorporate those Marks in their entirety. See *Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. caocan*, Case No. [D2022-3014](#) (holding that the disputed domain name <metaquestpro.com> was confusingly similar to the META and QUEST marks); *Meta Platforms, Inc. and Instagram, LLC v. Domains by Proxy, LLC / Bazyan Rafiq*, WIPO Case No. [D2021-3626](#) (holding that the disputed domain name <facebookinstagram.org> was confusingly similar to the FACEBOOK and INSTAGRAM marks).

The addition of the generic Top-Level Domains ("gTLDs") ".horse" and ".onl" are standard registration requirements and are generally disregarded for the purpose of assessing confusing similarity.

For the foregoing reasons, the Panel finds that paragraph 4(a)(i) of the Policy has been satisfied.

### **C. Rights or Legitimate Interests**

It is uncontroverted that Respondent is not affiliated with Complainant in any way, that Respondent is not a licensee of Complainant, and that Complainant has not authorized Respondent to use the Marks in the Domain Names or for any other purpose. There is no evidence to suggest that Respondent is commonly known by the Domain Names – Respondent's name, Libin, bears no resemblance to the Domain Names.

Furthermore, there is no evidence of Respondent having acquired or applied for any trademark registrations for “METAQUEST” as reflected in the Domain Names.

Moreover, Respondent’s parking the Domain Names for sale does not constitute using them in connection with any *bona fide* offering of goods or services where such offer capitalizes on the reputation and goodwill of the Complainant’s Marks. Nor is there any evidence of Respondent having made demonstrable preparations to use the Domain Names, such as evidence of business formation-related due diligence, legal advice, correspondence, evidence of credible investment in website development or promotional materials, proof of a genuine (*i.e.*, not pretextual) business plan utilizing the Domain Names and credible signs of pursuing the business plan, *bona fide* registration and use of related domain names, or other evidence generally pointing to a lack of indicia of cybersquatting intent.

Respondent’s listing of the Domain Names for sale signals an intent on the part of Respondent to derive commercial gain from the resale of the Domain Names. In addition, Complainant submits that by reflecting its Marks in the Domain Names, as well as Complainant’s product name (Meta Quest), the composition of the Domain Names is such that the Domain Names carry a high risk of implied affiliation with Complainant.

Where, as here, Complainant has raised a *prima facie* presumption of Respondent’s lack of any rights or legitimate interests in the Domain Names, and Respondent has failed to rebut that presumption, the Panel is satisfied that Complainant has carried its burden of proving that Respondent has no rights or legitimate interests in the Domain Names within the meaning of paragraph 4(a)(ii) of the Policy.

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

It is undisputed that Complainant or its predecessors were using the META and QUEST Marks before Respondent registered the Domain Names on February 2, 2022. Meta, formerly known as Facebook Inc., announced its change of name to Meta Platforms, Inc. on October 28, 2021, and publicized this worldwide.

Despite the relatively recent re-naming of Complainant’s company as “Meta Platforms, Inc.”, Complainant’s META Mark quickly became well known throughout the world and closely associated with Complainant’s goods and services. Acquired by Meta in March 2014, it is undisputed that Oculus developed goodwill and international renown in connection with its VR software and apparatus. Complainant distributes or previously distributed various VR headsets, formerly known as “Oculus Rift S” as well as “Oculus Quest” and its successor “Oculus Quest 2”. On September 16, 2020, Oculus Quest 2 was released with at least 10 million units shipped worldwide in November 2021. On October 28, 2021, Meta’s Chief Technology Officer announced that: “Starting in early 2022, [users will] start to see the shift from Oculus Quest from Facebook to Meta Quest and Oculus App to Meta Quest App over time”. Meta currently markets and offers its VR products (including the “Meta Quest” headsets) on its official website. This rebranding from Oculus Quest to Meta Quest was widely publicized in late October 2021, less than four months prior to Respondent’s registration of the Domain Names in February 2022. Thus, the Panel finds that Respondent has likely targeted Complainant’s META and QUEST Marks when registering the Domain Names. Respondent’s bad faith registration is also evidenced by the lack of any rights or legitimate interests in the Domain Names, discussed above.

The Panel notes that as at the date of this decision and according to Complainant, the Domain Names do not resolve to any active website – they are being passively held. Nevertheless, passive holding in itself does not preclude a finding of bad faith. The Panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. See section 3.3 of the [WIPO Overview 3.0](#). In addition to looking at the totality of the circumstances, some of the factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

Here, it is not contested that the Marks are well-known internationally and that “metaquest” is well-known, for example, because of its use in conjunction with the sale of headsets. Also, Complainant did not receive a response when it reached out to Respondent through the Registrar to try to resolve this dispute and Respondent did not submit a response in this proceeding. Thus, there is no evidence of record relating to Respondent’s actual or contemplated good-faith use of the Domain Names.

Furthermore, Respondent concealed his identify and the underlying details of Respondent, as disclosed by the Registrar, are false. That is, Respondent’s country does not correspond to the street, post code, city and province he provided to Whols. Respondent’s listing of the Domain Names incorporating well-known marks for sale signals an intent on the part of Respondent to derive commercial gain from the resale of the Domain Names. Lastly, in view of the high risk of implied affiliation between the Domain Names and Complainant, the presence of the Domain Names in the hands of Respondent represents an abusive threat hanging over Complainant’s head.

For the foregoing reasons, the Panel finds that paragraph 4(a)(iii) 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 Domain Names <metaquest.horse> and <metaquest.onl> be transferred to Complainant.

*/Harrie R. Samaras/*

**Harrie R. Samaras**

Sole Panelist

Date: February 8, 2023