

## **ADMINISTRATIVE PANEL DECISION**

Meta Platforms, Inc. v. Hjuu Ghhh

Case No. D2022-0385

### **1. The Parties**

The Complainant is Meta Platforms, Inc., United States of America (“United States”), represented by Tucker & Latifi, LLP, United States.

The Respondent is Hjuu Ghhh, Hong Kong, China.

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

The disputed domain names <facebook-libra-coin.com> and <facebooklibra-coin.com> are registered with GoDaddy.com, LLC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 4, 2022. On February 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 7, 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 8, 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 on February 12, 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 the Respondent of the Complaint, and the proceedings commenced on February 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 11, 2022.

The Center appointed Knud Wallberg as the sole panelist in this matter on April 25, 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**

The Complainant operates the world-famous Facebook social networking website and mobile application. The Complainant owns the exclusive rights to the FACEBOOK trademarks and service marks, which it has used since 2004. Facebook has more than one billion daily active accounts and over two billion monthly active users from all over the world. The “www.facebook.com” website is currently ranked as the seventh most visited website in the world and the Facebook app is the third most downloaded app globally.

The Complainant is the owner of numerous trademark registrations for FACEBOOK in many jurisdictions throughout the world, including United States Trademark Registration No. 3041791, FACEBOOK, registered on January 10, 2006 (first use in commerce in 2004) for services in classes 35 and 38, and Hong Kong, China Trademark Registration No. 300603026, registered on December 12, 2008, for services in classes 35, 38 and 42.

The Complainant is the owner of numerous domain names consisting of or including the FACEBOOK trademark under various generic Top-Level Domains (“gTLDs”) as well as under various country code Top-Level Domains.

In 2019, the Complainant announced a new digital currency project called “Libra” and the Complainant helped to create “The Libra Association” to facilitate operation of the Libra project, which includes plans to support “Libra Coins,” including single-currency stablecoins and a multi-currency coin, as part of the Libra payment system.

The disputed domain names were on June 29, 2021. The disputed domain name <facebook-libra-coin.com> resolves to an active website while the disputed domain name <facebooklibra-coin.com> does currently not resolve to an active webpage.

#### **5. Parties’ Contentions**

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

The Complainant submits that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights since it incorporates the Complainant’s FACEBOOK trademark in its entirety. The addition of the terms “libra” and “coin” and one or more hyphens does not prevent a finding of confusing similarity.

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has neither licensed nor authorized the Respondent to use the Complainant’s mark, nor does the Respondent have any legal relationship with the Complainant that would entitle the Respondent to use the Complainant’s FACEBOOK mark. Further, neither the Whois data for the disputed domain names nor the corresponding websites available at the disputed domain names, nor any other available information support that the Respondent is known by the disputed domain names. The Respondent cannot establish any *bona fide* offering under the Policy based on its use of the disputed domain name <facebook-libra-coin.com>, since the Respondent uses the disputed domain name to impersonate the Complainant and trick prospective consumers – who will believe they are accessing a website affiliated or associated with the Complainant – into entering their registration information, ostensibly to create an account for buying and exchanging digital currency. Since the disputed domain name <facebooklibra-coin.com> does not resolve to an active webpage the Respondent cannot claim to be using the disputed domain name in connection with a *bona fide* offering of goods or services within the meaning of

paragraph 4(c)(i) of the Policy.

The Complainant finally submits that the registration of confusingly similar domain names that are obviously connected with a particular trademark owner by someone with no connection with the trademark owner suggests bad faith registration, and that the use of the disputed domain name <facebook-libra-coin.com> by the Respondent, and the passive holding of the disputed domain name <facebooklibra-coin.com> supports a finding of bad faith use under the Policy

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain names registered by the respondent are identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) that the respondent has no rights or legitimate interests in respect of the domain names; and
- (iii) that the domain names have been registered and are being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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

The Panel finds that the disputed domain names are confusingly similar (in the sense of the Policy) to the Complainant's registered trademark FACEBOOK. The disputed domain names incorporate this mark in its entirety with the addition of the terms "libra" and "coin".

Where the Complainant's trademark is recognizable within the disputed domain names, the addition of other terms would not prevent a finding of confusing similarity to the complainant's mark under the first element. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Furthermore, the addition of the gTLD ".com" does not prevent a finding of confusing similarity under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain names.

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

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in

the disputed domain names.

The Respondent has not produced, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain names on the part of the Respondent in these proceedings. Moreover, the disputed domain names consist of the FACEBOOK trademark in their entirety along with the terms “libra” and “coin”, which are associated with the Complainant’s much-publicized venture into “digital currency”, thus the nature of the disputed domain names are such to carry a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

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

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain names in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on the respondent’s website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain names have been registered and are being used in bad faith.

Given the circumstances of the case, including the evidence on record of the use and worldwide reputation of the Complainant’s trademark FACEBOOK and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain names without prior knowledge of the Complainant and the Complainant’s mark. As far as the disputed domain name <facebook-libra-coin.com> is concerned this is underlined by the content of the website, which makes several references to the FACEBOOK trademark.

The Panel therefore finds that the disputed domain names were registered in bad faith.

As described above, the disputed domain name <facebook-libra-coin.com> is used for a website that clearly impersonates the Complainant and its founder and which is therefore suited to trick prospective consumers, who will believe they are accessing a website that is affiliated or associated with the Complainant, into entering their registration information, apparently in order to create an account for buying and exchanging digital currency,

The disputed domain name <facebooklibra-coin.com> does currently not resolve to an active website and appears to have never been used actively. However, as first stated in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and repeated in many subsequent decisions under the UDRP: “the concept of a domain name ‘being used in bad faith’ is not limited to positive action; inaction is within the concept. That is to say, it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith.” See section 3.3 of the [WIPO Overview 3.0](#)

Noting that the disputed domain names incorporate the Complainant’s distinctive and reputed trademark FACEBOOK, that no Response has been filed, and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain names, and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## 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, <facebook-libra-coin.com> and <facebooklibra-coin.com>, be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: May 5, 2022