

ADMINISTRATIVE PANEL DECISION

Meta Platforms, Inc. v. Domain Admin, Privacy Protect, LLC / zhipeng zhu;
Registration Private, Domains By Proxy, LLC / fan wu; 吴玉萍 (Wu Yu Ping);
and c/o WHOISt trustee.com Limited, Registrant of toptodayfb.com /
zhipeng zhu
Case No. D2022-1997

1. The Parties

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

The Respondents are Domain Admin, Privacy Protect, LLC, United States / zhipeng zhu, China;
Registration Private, Domains By Proxy, LLC, United States / fan wu, China; 吴玉萍 (Wu Yu Ping), China;
and c/o WHOISt trustee.com Limited, Registrant of toptodayfb.com, United Kingdom / zhipeng zhu, China.

2. The Domain Names and Registrars

The disputed domain name <facebookamz.com> is registered with GoDaddy.com, LLC; the disputed domain name <facebookblogfb.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com; the disputed domain name <fbbusiness123.com> is registered with DNSPod, Inc.; and the disputed domain name <toptodayfb.com> is registered with 1API GmbH (collectively, the “Registrars”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2022. On June 2, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On June 3, 4, and 8, 2022 respectively, the Registrars transmitted by email to the Center their verification responses disclosing registrants and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on June 9, 2022, providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on June 13, 2022.

On June 9, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 9, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondents 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 Respondents in English and Chinese of the Complaint, and the proceeding commenced on June 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on July 6, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on July 14, 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 Meta Platforms, Inc., (formerly Facebook Inc.) is a company founded in the US in 2004, and one of the world’s leading providers of online social networking services, under the trade marks FACEBOOK and FB (the “Trade Mark(s)”).

The Complainant’s “www.facebook.com” website is currently ranked the third most visited website in the world according to information company Alexa, and the Complainant’s Facebook app is ranked among the top mobile applications in the world.

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Marks, including Chinese registration No. 5251162 for the Trade Mark FACEBOOK, registered on September 21, 2009; US registration No. 3041791 for the Trade Mark FACEBOOK, registered on January 10, 2006; International registration No. 1075807 for the Trade Mark FACEBOOK, registered on July 16, 2010; European Union registration No. 008981383 for the Trade Mark FB, registered on August 23, 2011; and US registration No. 4659777 for the Trade Mark FB, registered on December 23, 2014.

The Complainant is the owner of numerous domain names comprising the Trade Marks, under various generic Top-Level Domains (“gTLDs”) and country code Top-Level Domains (“ccTLDs”), including <facebook.com>, <facebook.cn>, <fb.com>, and <fb.asia>.

The Complainant’s websites are inaccessible in mainland China, but the Complainant and its Trade Marks have received widespread coverage in Chinese press (including in China’s state media People’s Daily).

B. Respondents

The Respondents are apparently individuals resident in China.

C. The Disputed Domain Names

The disputed domain name <facebookamz.com> was registered on January 9, 2020.

The disputed domain name <facebookblogfb.com> was registered on October 3, 2018.

The disputed domain name <fbbusiness123.com> was registered on November 4, 2020.

The disputed domain name <toptodayfb.com> was registered on December 26, 2020.

D. The Websites at the Disputed Domain Names

The disputed domain names each resolve to Chinese language websites with similar blog-style layout and font, which provide articles on how to use social media (particularly referring to FACEBOOK and FB) for business marketing and offer FACEBOOK and other social media accounts for sale (the “Website(s)”).

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the Trade Marks, the Respondents have 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. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Consolidation of Respondents

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) provides as follows:

“Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.”

The Complainant contends that there should be consolidation of the Respondents in the present proceeding, for several reasons, including in particular the following:

- (i) the disputed domain names each resolve to the Websites with similar layout and content, and each targeting the Complainant’s FACEBOOK and FB Trade Marks;
- (ii) the Websites associated with the disputed domain names <facebookamz.com> and <fbbusiness123.com> display the same Tencent QQ number for contact purposes;
- (iii) the Website at the disputed domain name <facebookamz.com> contains links redirecting to the Website associated with the disputed domain name <facebookblogfb.com>;
- (iv) the Websites at the disputed domain names <facebookamz.com>, <facebookblogfb.com>, and <toptodayfb.com> are associated with the same IP range and the same ASN;
- (v) the Websites at the disputed domain names <facebookblogfb.com> and <toptodayfb.com> are hosted on the same name servers and display the same Tencent QQ number for contact purposes; and
- (vi) the disputed domain names <facebookblogfb.com> and <toptodayfb.com> are both registered in the name of “Zhipeng Zhu”, based in Fujian, China, while the disputed domain names <facebookamz.com> and <fbbusiness123.com> are both registered using the same telephone number and email address.

For the above reasons put forward by the Complainant, the Panel concludes that there are sufficient grounds to support the conclusion that the disputed domain names are subject to common control and that consolidation would be fair and equitable to all Parties. Save where the context suggests otherwise, the Respondents will accordingly be referred to as the “Respondent” hereinafter.

6.2. Preliminary Issue: Language of the Proceeding

The language of the Registration Agreements for the disputed domain names <facebookamz.com>, <facebookblogfb.com>, and <toptodayfb.com> is English.

The language of the Registration Agreement for the disputed domain name <fbbusiness123.com> 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 relies in several factors in support of its language request, including the English terms of each of the disputed domain names, and the fact the language of the Registration Agreements for three of the disputed domain names is English.

The Respondent did not file a Response and did not file any submissions with respect to the language of the proceeding. The Panel would have accepted a response in Chinese.

In exercising its discretion to use a language other than that of the registration agreement, the UDRP 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 (see [WIPO Overview 3.0](#), section 4.5.1).

Although there is insufficient evidence to suggest the likely possibility that the Respondent is conversant in the English language, the Panel notes that the Respondent has taken no part in this proceeding; and that all of the Center’s communications with the Parties have been sent in English and Chinese.

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

In light of the Panel’s finding with respect to consolidation of the Respondents set out in section 6.1. above, and in light of the fact the language of the Registration Agreements for three out of the four disputed domain names is English, 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.

6.3 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.

Disregarding the gTLD, the disputed domain name <facebookamz.com> incorporates the entirety of the FACEBOOK Trade Mark, together with the letters “amz”; the disputed domain name <facebookblogfb.com> incorporates the entirety of the both the FACEBOOK and the FB Trade Marks, separated by the word “blog”; the disputed domain name <fbbusiness123.com> incorporates the entirety of the FB Trade Mark, together with the word “business” and the numbers “123”; and the disputed domain name <toptodayfb.com> incorporate the entirety of the FB Trade Mark, prefaced by the words “top today” (see [WIPO Overview 3.0](#), section 1.7).

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

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

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 the 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 Respondent has used the disputed domain names via the Websites, for commercial gain, to offer multiple Facebook and other social media accounts for sale, claiming that these accounts could be used for developing business outside of China, in violation of the Complainant’s terms and policies, which do not permit persons to hold more than one account, and prohibit the use of personal accounts for business advertising purposes.

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 of the Websites set out section 6.3.B. above, the Panel finds that bad faith has been made out by the Complainant under paragraph 4(b)(iv) of the Policy.

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 names <facebookamz.com>, <facebookblogfb.com>, <fbbusiness123.com>, and <toptodayfb.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: July 28, 2022