

## **ADMINISTRATIVE PANEL DECISION**

### **Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. Wuping Liu Case No. D2023-0195**

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

The Complainants are Meta Platforms, Inc. and Meta Platforms Technologies, LLC, United States of America, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Wuping Liu, China.

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

The disputed domain name <metaquest.lat> is registered with Dynadot, LLC (the “Registrar”).

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

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2023. On January 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 January 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on February 20, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

According to information in the Complaint, the Complainant Meta Platforms, Inc. (the “First Complainant”) is a United States social technology company, and operates, *inter alia*, Facebook, Instagram, Meta Quest (formerly Oculus), Portal, and WhatsApp. The First Complainant, formerly known as Facebook Inc., announced its change of name to Meta Platforms Inc. on October 28, 2021, and this was publicized worldwide. The Complainant Meta Platforms Technologies, LLC (the “Second Complainant”) is the intellectual property rights holder for various technologies owned by the First Complainant. The Second Complainant is a distributor of various virtual reality (“VR”) headsets, (including the “Meta Quest” VR headsets).

The Complainants own many trademark registrations for META and QUEST respectively, including the following:

- the United States trademark registration for META, registered under No. 5,548,121 as of August 28, 2018;
- the European Union trademark registration for QUEST, registered under No. 017961685 as of June 16, 2020.

The disputed domain name <metaquest.lat> was registered on February 1, 2022. The disputed domain name redirects to a Dan.com parking page listing the disputed domain name for sale.

#### **5. Parties’ Contentions**

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

The Complainants argue that they own numerous trademark registrations for META and QUEST in jurisdictions throughout the world and have therefore established trademark rights in META and QUEST for purposes of paragraph 4(a)(i) of the Policy. In addition, the Complainants submit that the inclusion of the META and QUEST trademarks in the disputed domain name in their entirety is sufficient to establish confusing similarity between the disputed domain name and the Complainants’ trademarks.

With respect to the second element, the Complainants argue that the Respondent is not a licensee of the Complainants. The Respondent is not affiliated with the Complainants in any way. The Complainants have not granted any authorization for the Respondent to make use of its META and QUEST trademarks, in a domain name or otherwise. The disputed domain name resolves to a parking page that lists the disputed domain name for sale. The Complainants submit that merely parking a domain name for sale does not amount to a *bona fide* offering of goods or services and does not give rise to rights or legitimate interests. Nor is there any evidence of the Respondent having made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. In addition, there is no evidence to suggest that the Respondent is commonly known by the disputed domain name.

As regards the third element, the Complainants argue they have received substantial media attention (including the Chinese press) in relation to the success and popularity of their VR products as well as the change of the Complainants’ product name from “Oculus Quest” to “Meta Quest”. The disputed domain name was registered subsequent to the Complainants’ rebranding from “Oculus Quest” to “Meta”. The trademarks META and QUEST form a distinctive combination that is readily associated with the Complainants. As such, the Complainants submit that the Respondent could not credibly argue that it did not have knowledge of the Complainants’ META and QUEST trademarks when registering the disputed domain name.

Given that the Respondent has listed the disputed domain name for sale, and in light of the composition of the disputed domain name and the timing of the registration, the Complainants infer that the Respondent registered the disputed domain name opportunistically, primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainants, or to a competitor of the Complainants, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name, in bad faith pursuant to paragraph 4(b)(i) of the Policy. Finally, the Respondent's failure to reply to the Complainants' pre-Complaint notice may also be considered an additional indicator of the Respondent's bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Multiple Complainants**

The Complainants argue that the consolidation of multiple complainants is appropriate in the present proceeding and would not have any unfairly prejudicial effect on the Respondent. The Complainants contend that the Second Complainant, the owner of trademark registrations for QUEST, is a wholly-owned subsidiary of the First Complainant, the owner of trademark registrations for META. As such, the two entities have a sufficient common legal interest in the META and QUEST trademarks included in the disputed domain name to file a joint Complaint. In addition, the Complainants have been the target of common conduct by the Respondent, who has engaged in bad faith registration and use of the disputed domain name comprising their trademarks.

According to section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[when] 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".

The Second Complainant is a wholly owned subsidiary of the First Complainant; hence the co-Complainants have a common grievance against the Respondent, as they share common interests. In the circumstances, and absence of any objection on behalf of the Respondent, the Panel accepts the single consolidated Complaint against the Respondent, which it finds fair and equitable to all the parties and will accept both the Complainants as party to the proceedings.

### **6.2. Substantive matters**

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant email and postal addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

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

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

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

The Panel accepts that the Complainants have proved rights over the META and QUEST trademarks. Further, noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element. See [WIPO Overview 3.0](#), section 1.1.2.

The disputed domain name consists of the trademarks META and QUEST in their entirety. It is well accepted by UDRP panels that a generic Top Level Domain (“gTLD”) is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is identical or confusingly similar to the Complainants’ trademarks and therefore finds that the Complainants have satisfied the standing requirement under paragraph 4(a)(i) of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, the Complainants have the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainants to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainants have established a *prima facie* case that they hold rights over the META and QUEST trademarks and claim that the Respondent has no legitimate reason to acquire and use the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. On the contrary, as the Complainants demonstrated, the disputed domain name resolves to a page where it is offered for sale, which in the circumstances of the case cannot amount to rights or legitimate interests in the disputed domain name. Furthermore, the nature of the disputed domain name, comprising the Complainants’ trademarks in their entirety, cannot be considered fair as it falsely suggests an affiliation with the Complainants that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainants have made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has failed to bring evidence to the contrary.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

According to paragraph 4(a)(iii) of the Policy, the Complainants must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith.

The Complainants’ registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain name. The Respondent has not denied knowledge of the Complainants. Under these circumstances, and also given the distinctiveness of the Complainants’ trademarks, as well as the combined use of the Complainants’ trademarks in the disputed domain name, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainants’ trademarks, and to target those trademarks. In this respect, the Panel agrees with the Complainants that when combined, the trademarks META and QUEST form a distinctive combination that is readily associated with the Complainants.

The Complainants have proved that the disputed domain name is offered for sale. This, in view of the finding that the Respondent has no right to or legitimate interest in the disputed domain name, given also the distinctiveness of the Complainants’ trademarks and the confusing similarity with the Complainants’ trademarks, as well as the failure of the Respondent to present a credible rationale for registering the disputed domain name appears to signal an intention on the part of the Respondent to derive commercial gain from the resale of the disputed domain name riding on the reputation of the Complainants’ trademarks. The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainants’ contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. Also, the Respondent seems to have provided false physical address details in the Whois. This is an indicator of bad faith (section 3.2.1 of the [WIPO Overview 3.0](#)).

In the Panel’s view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

### **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, <metaquest.lat> be transferred to the First Complainant., Meta Platforms, Inc.

/Mihaela Maravela/

**Mihaela Maravela**

Sole Panelist

Date: March 6, 2023