

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Pruthvi Raj
Case No. D2023-1715

1. The Parties

The Complainant is WhatsApp LLC, United States of America (“United States”), represented by Tucker Ellis, LLP, United States.

The Respondent is Pruthvi Raj, India.

2. The Domain Name and Registrar

The disputed domain name <gbwhatsappdownloads.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2023. On April 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 19, 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 April 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2023.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on June 8, 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

The Complainant operates the WhatsApp messaging and voice-over-IP service and mobile application. WhatsApp is a global leader in messaging services for mobile devices, with over 2 billion people in over 180 countries now using WhatsApp

The Complainant owns multiple trademark registrations worldwide for WHATSAPP, in particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name:

- United States trademark WHATSAPP registration No. 3939463, registered on April 5, 2011, for services in International Class 42;
- International trademark WHATSAPP registration No. 1085539, registered on May 24, 2011, for goods and services in International Classes 9 and 38; and
- European Union trademark WHATSAPP registration No. 009986514, registered on October 25, 2011, for goods and services in International Classes 9, 38, and 42.

The disputed domain name was registered on July 24, 2022. The Complainant indicates and provides evidence that the disputed domain name directs to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to the WHATSAPP trademark, because it incorporates the trademark in its entirety as its dominant element, and the additional terms "bg" and "downloads" do not sufficiently distinguish the disputed domain name from the trademark.

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has used the disputed domain name in relation to a *bona fide* offering of goods or services.

The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks in the disputed domain name.

The Respondent registered and is using the disputed domain name in bad faith.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

A. Identical or Confusingly Similar

The Complainant has provided evidence and has thus established its rights in the WHATSAPP trademark.

In the present case, the disputed domain name <gbwhatsappdownloads.com> is confusingly similar to the Complainant's registered well-known trademark WHATSAPP.

The WHATSAPP trademark is recognizable in the disputed domain name.

Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The addition of terms "gb" and "downloads" to the Complainant's trademark, does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. See *Skyscanner Limited v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2019-2881](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the Complainant's mark.

Therefore, the Panel finds the first element of the Policy has been met.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant must demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

There is nothing in the available case file to suggest that the Respondent is in any way affiliated with the Complainant, nor has the Complainant authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

In *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#), the panel stated that: "in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by Respondent."

The Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Panel concludes, noting that the Complainant has made out a *prima facie* case that Respondent lacks

any rights or legitimate interests in the disputed domain name, that the second element of the Policy has, therefore, been met.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered, or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

As discussed above, the disputed domain name is confusingly similar to the well-known WHATSAPP trademark and includes the terms “gb” and “downloads”.

Taking the above into account, the Panel accepts that it is more likely than not that the Respondent has registered the disputed domain name with knowledge of the Complainant and targeting the WHATSAPP trademark. Furthermore, considering the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the domain name may be put, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and 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 name <gbwhatsappdownloads.com> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: June 19, 2023