

ADMINISTRATIVE PANEL DECISION

WhatsApp, LLC. v. Malika BZDRR

Case No. D2023-4808

1. The Parties

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

The Respondent is Malika BZDRR, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <downloadgbwhatsapp.co>, <downloadgbwhatsapp.com>, <downloadgbwhatsapp.me>, <downloadgbwhatsapp.org>, <downloadgbwhatsapp.pro>, <downloadgbwhatsapp.social>, <fmgbwhatsapp.com>, <gbwhatsappapk.social>, <gbwhatsappdownload.social>, <gbwhatsapppro.co>, <gbwhatsapppro.org>, <ogbwhatsapp.co>, <ogbwhatsapp.com>, <ogbwhatsapp.net>, <ogbwhatsapp.org> and <yogbwhatsapp.com> are registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 17, 2023. On November 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 22, 2023, 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 (Redacted for Privacy, Dynadot Privacy Service, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 23, 2023, 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 December 5, 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 the Respondent of the Complaint, and the proceedings commenced on December 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 3, 2024.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on January 10, 2024. 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 is a global leader in messaging services for mobile devices. The Complainant operates the WhatsApp messaging and voice-over-IP service and mobile application and enables its users to send text messages and voice messages, make voice and video calls, and share images, documents, user locations, and other content with one another.

The Complainant is the holder of the main website at "www.whatsapp.com". WhatsApp is available in sixty different languages. The Complainant also offers users running a business, the "WhatsApp Business" app, which allows small businesses to interact with customers using tools to automate, sort and quickly respond to messages. It also offers the "WhatsApp Business Platform", to enable larger businesses to chat with customers at scale through programmatic access to WhatsApp.

The Complainant owns numerous trademark registrations protecting the WHATSAPP Mark in the United States and around the world, including:

- United States, WHATSAPP trademark registration No. 3939463 registered on April 5, 2011, with first use date on September 10, 2009;
- European Union WHATSAPP trademark registration No. 009986514 registered on October 25, 2011;
- International WHATSAPP trademark registration No. 1396913 registered on December 21, 2017;
- Turkey WHATSAPP trademark registration No. 2015 103320 registered on April 24, 2017;
- India WHATSAPP trademark registration No. 3111463 registered on November 30, 2015;
- China WHATSAPP trademark registration No. 21470708A registered on December 21, 2017.

All 16 disputed domain names have been registered on April 8, 2023. All the disputed domain names resolve to websites offering different unauthorized versions of the same "GB WhatsApp" mobile application made by the same or related developers, namely "WAMods", and "Alex Mods" and "Yousef Al-Basha".

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that:

- the Complainant holds numerous trademark registrations for WHATSAPP.
- the disputed domain names are composed of the Complainant's highly distinctive and well-known WHATSAPP trademark in full with additional descriptive terms added by the Respondent as follows:

the disputed domain names: <downloadgbwhatsapp.co>, downloadgbwhatsapp.com>, <downloadgbwhatsapp.me>, <downloadgbwhatsapp.org>, <downloadgbwhatsapp.pro>, <downloadgbwhatsapp.social> include the term “download” and letters “gb”; the disputed domain <fmgbwhatsapp.com> includes the letters “fmgb”; the disputed domain name <gbwhatsappapk.social> includes the letters “gb” and “apk”; the disputed domain name <gbwhatsappdownload.social> includes the letters “gb” and term “download”; the disputed domain names <gbwhatsapppro.co>, <gbwhatsapppro.org> include the letters “gb” and the term “pro”; the disputed domain names <ogbwhatsapp.co>, <ogbwhatsapp.com>, <ogbwhatsapp.net>, <ogbwhatsapp.org> include the letters “ogb”, and the disputed domain name <yogbwhatsapp.com> includes the letters “yogb”.

- the term “pro” is a common abbreviation for the term “professional”, which the Respondent appears to have selected to create confusion with various “GB WhatsApp” apps, as a putative professional version of the Complainant’s official WhatsApp goods and services.
- the letters “apk” (“Android Package Kit”) and “download” are particularly relevant to the Complainant’s WhatsApp mobile application and are used by the Respondent to create further confusion with authentic downloads and versions of the Complainant’s WhatsApp goods and services.
- the Complainant is not aware of any particular meaning for the added letters “gb”, “ogb”, “yogb” and “fmgb”, beyond common use of “gb” as an acronym for the term “gigabyte”.
- none of these letters or terms added to the Complainant’s trademark are sufficient to dispel the ensuing confusing similarity between the Complainant’s WhatsApp trademark and any of the disputed domain names.
- the applicable country code Top-Level-Domains (“ccTLDs”) and generic Top-Level-Domains (“gTLDs”), in this case “.social”, “.org”, “.co”, “.com”, “.me”, “.pro” and “.net” may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement.
- the Respondent has no rights nor legitimate interests in the disputed domain names and the Respondent cannot invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the disputed domain names: as the Respondent is not a licensee of the Complainant, nor it is affiliated with the Complainant in any way.
- the Complainant has not authorized the Respondent to make any use of its WHATSAPP trademark, whether in a domain name, in a mobile app, in the use of its logos on the website, or otherwise.
- the composition of the disputed domain names, consisting of the Complainant’s distinctive and well-known WHATSAPP trademark plus generic or descriptive terms, cannot constitute fair use, because the Respondent effectively impersonates or suggests sponsorship or endorsement by the Complainant.
- to the best of the Complainant’s knowledge, the Respondent has not acquired, nor applied for a trademark registration for “gb whatsapp”, or any variation thereof as reflected in any of the disputed domain names.
- there is no evidence to suggest that the Respondent is commonly known by any of the disputed domain names, as intended under paragraph 4(c)(ii) of the Policy.
- the Respondent’s websites associated with each of the disputed domain names refer directly to the Complainant’s distinctive and well-known WHATSAPP trademark and the Complainant’s goods and services, and all purport to offer a modified version of the Complainant’s WHATSAPP mobile application, boasting additional features not available on the Complainant’s original mobile application, as follows:

- the website content associated with <gbwhatsappapk.social> (which redirects to “www.gtwhat.pk”) advertises, “Check out GBWhatsApp’s latest 2023 version! It’s like giving your regular WhatsApp a super-boost with bonus features”. In addition, on this same website content, the Respondent has misappropriated a confusingly similar logo to the Complainant’s WHATSAPP logo depicted above.
- the website content associated with <gbwhatsapppro.org> claims, “GBWhatsApp is the most Popular Mod of Official WhatsApp Messenger”. Again, on the same website content, the Respondent uses a confusingly similar logo to the Complainant’s WhatsApp Logo depicted above, except mutilated with the added letters “GB”.
- the website content associated with <gbwhatsapppro.co> offers, “a modified version of the popular WhatsApp messaging app. GB WhatsApp Pro comes with a wide range of exciting features and customisation options that are not available in the standard version of WhatsApp”. On the same website content, the Respondent uses a confusingly similar logo to the Complainant’s WHATSAPP Logo depicted above, also with the letters “GB” added to it.
- the disputed domain names <downloadgbwhatsapp.co>, <downloadgbwhatsapp.com>, <downloadgbwhatsapp.org>, <downloadgbwhatsapp.social>, <gbwhatsappdownload.social>, <downloadgbwhatsapp.me>, and <downloadgbwhatsapp.pro> all redirect to website content hosted through the related ccTLD domain name and URL “www.downloadgbwhatsapp.net.pk”. The website content associated with each of these disputed domain names states, “GBWhatsApp is a popular third party WhatsApp, offering enhanced features and customizationoptions”. Again, the Respondent uses a confusingly similar logo to the Complainant’s WHATSAPP Logo depicted above with the letters “gb” added to it.
- the disputed domain names <ogbwhatsapp.co>, <ogbwhatsapp.org>, <ogbwhatsapp.com>, and <ogbwhatsapp.net> all redirect to “www.gbup.net.pk”. The website content associated with each of these disputed domain names states, “GB WhatsApp, an unofficial version of the popular messaging application, offers users additional functionalities and customization options not available in the official app”. The Respondent also uses a near identical logo to the Complainant’s WHATSAPP Logo.
- the disputed domain name <yogbwhatsapp.com> redirects to “www.youwhats.net” and advertises “Yo WhatsApp APK is a modified version of WhatsApp that differs from other WhatsApp mods thanks to its more customized UI, highest privacy settings, and cutting-edge file-sharing features”. The Respondent uses a confusingly similar logo to the Complainant’s WHATSAPP Logo depicted above, only with the letters YO appearing above it.
- the website content associated with <fmgbwhatsapp.com> states that “FMGB WHATSAPP comes with a wide range of exciting features and customization options that are not available in the standard version of WhatsApp”. Again, the Respondent uses a confusingly similar logo to the Complainant’s WHATSAPP Logo.
- the “GB WhatsApp” modified mobile applications offered for download on all these domain names directly compete with the Complainant’s own official WhatsApp mobile application. Moreover, the Respondent has promoted “GB WhatsApp” using variations of the Complainant’s WHATSAPP logo, the common elements being: a white telephone receiver against a green background in a speech bubble.
- the use of the Complainant’s WHATSAPP logo not only on the Respondent’s websites found at each disputed domain name but also in the Respondent’s favicons for all the disputed domain names is both intended and likely to confuse Internet users into believing that the disputed domain names and the modified “GB WhatsApp” mobile applications are operated, approved, or sponsored by, or affiliated with the Complainant. This implied affiliation or sponsorship cannot constitute noncommercial fair use under the Policy.

- the Respondent is clearly leveraging the Complainant's well-known WHATSAPP Mark in order to generate traffic and attract users to the disputed domain names by failing to include any disclaimer on the landing pages of the disputed domain names, the Respondent is encouraging consumers to believe that an affiliation exists between the Complainant, the disputed domain names, and the Respondent's various versions of the unauthorized "GB WhatsApp" modified mobile application.
- the disputed domain names give the impression of being so obviously connected with the Complainant and its WhatsApp products and services, that the very use, let alone attempts to monetize, by the Respondent (who has no connection to the Complainant) suggests opportunistic use.
- the Respondent clearly had the Complainant's distinctive and well-known WHATSAPP Mark in mind when registering each of the disputed domain names and the Respondent clearly registered each of the same in order to exploit and profit from the Complainant's trademark rights. Indeed, the Respondent knowingly adopted the Complainant's well-known WHATSAPP Mark as numerous domain names and cannot claim the benefit of paragraph 4(c)(i) of the Policy to establish rights to those domain names based on its mere use to offer goods or services prior to the notice of a dispute.
- the Complainant's WHATSAPP trademark is inherently distinctive and well-known throughout the world in connection with its messaging application, having been continuously and extensively used since the respective launching of its services in 2009, and having acquired considerable reputation and goodwill worldwide.
- in view of the Respondent's content on each of the disputed domain names (misappropriating the Complainant's WHATSAPP Logo and repeatedly referencing the Complainant's WHATSAPP Mark and mobile application), the Respondent cannot credibly argue that they did not have prior knowledge of the Complainant's trademarks at the time the disputed domain names were registered on April 8, 2023, at which time the Complainant's WhatsApp platform had amassed over two billion users worldwide.
- the registration and commercial use of confusingly similar domain names, thereby taking advantage of a complainant's mark for a respondent's commercial gain, supports a finding of bad faith under Policy 4(b)(iv).
- given the composition of each of the disputed domain names, as highlighted above, and noting the nature of each of the Respondent's websites, Internet users are likely to be misled into believing that the Respondent's websites, along with the modified unauthorized "GB WhatsApp" applications promoted therein, are affiliated with or somehow endorsed by the Complainant. By using the disputed domain names in this fashion, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the goods and services marketed therein, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.
- the Complainant sought to contact the Respondent directly and through its Registrar and proxy hosting provider on numerous occasions , including requests that the disputed domain names be suspended, but the Respondent failed to answer and failed to remove the content found at the disputed domain names, apart from changing a few favicons.
- the Respondent's use of a proxy service or selection of a Registrar that applies a default proxy service, strongly suggests an attempt to prevent or frustrate a UDRP proceeding and therefore constitutes additional evidence of bad faith at the time of registration of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. as it holds numerous trademark registrations for WHATSAPP.

The Panel notes that the entirety of the mark is reproduced within the disputed domain names and all the disputed domain names are composed of the Complainant's WHATSAPP trademark in full with additional terms added by the Respondent as follows: <downloadgbwhatsapp.co>, <downloadgbwhatsapp.com>, <downloadgbwhatsapp.me>, <downloadgbwhatsapp.org>, <downloadgbwhatsapp.pro>, <downloadgbwhatsapp.social> include the term "download" and letters "gb"; the disputed domain <fmgbwhatsapp.com> includes the letters "fmgb"; the disputed domain name <gbwhatsappapk.social> includes the letters "gb" and "apk"; the disputed domain name <gbwhatsappdownload.social> includes the letters "gb" and term "download"; the disputed domain name <gbwhatsapppro.co>, <gbwhatsapppro.org> include the letters "gb" and the term "pro"; the disputed domain names <ogbwhatsapp.co>, <ogbwhatsapp.com>, <ogbwhatsapp.net>, <ogbwhatsapp.org> include the letters "ogb", and the disputed domain name <yogbwhatsapp.com> includes the letters "yogb".

Although the addition of other terms as "pro", "apk", "download" or letters "gb", "ogb", "yogb" and "fmgb", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy as [WIPO Overview 3.0](#), section 1.8.

The Panel considers also that the applicable ccTLDs and gTLDs, in this case ".social", ".org", ".co", ".com", ".me", ".pro" and ".net" may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

Consequently, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant contends that it has established *prima facie* that the Respondent lacks rights or legitimate interests in the disputed domain names. Accordingly, the burden of production shifts to the Respondent to rebut the Complainant's evidence and come forward with sufficient evidence to establish its rights or legitimate interests.

In this sense, the Panel notes the contentions of the Complainant which establish *prima facie* that the Respondent lacks rights and legitimate interests:

- The composition of the disputed domain names, incorporates the Complainant's distinctive and well-known WHATSAPP trademark plus additional terms, which indicates that the Respondent effectively impersonates or suggests sponsorship or endorsement by the Complainant, as per [WIPO Overview 3.0](#), at section 2.5.1.
- the Respondent has not acquired, nor applied for a trademark registration for "gb whatsapp", or any variation thereof as reflected in any of the disputed domain names.
- there is no evidence to suggest that the Respondent is commonly known by any of the disputed domain names, as intended under paragraph 4(c)(ii) of the Policy.
- the Respondent's use of the disputed domain names does not suggest in any reasonable way that the Respondent is commonly known by any of the disputed domain names, nor does it give rise to any reputation in the disputed domain names themselves, independent of the Complainant's trademark rights.
- the Respondent's websites associated with each of the disputed domain names refer directly to the Complainant's distinctive and well-known WHATSAPP trademark and the Complainant's goods and services, and all purport to offer a modified version of the Complainant's WhatsApp mobile application, boasting additional features not available on the Complainant's original mobile application.
- the content associated with each of the disputed domain names is designed to get Internet users to download the Respondent's unauthorized "GB WhatsApp" software by creating confusion with the Complainant and the Complainant's well-known WHATSAPP Marks.
- the Respondent is encouraging consumers to believe that an affiliation exists between the Complainant, the disputed domain names, and the Respondent's various versions of the unauthorized "GB WhatsApp" modified mobile application, where no such affiliation or authorization exists between the Respondent and the Complainant however.
- the disputed domain names give the impression of being connected with Complainant and its WhatsApp products and services, that the very use, let alone attempts to monetize, by Respondent (who has no connection to the Complainant) suggests opportunistic use.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel considers that the Respondent knowingly adopted the Complainant's well-known WHATSAPP Mark as numerous domain names and cannot claim the benefit of paragraph 4(c)(i) of the Policy to establish rights to those disputed domain names based on its mere use to offer goods or services prior to the notice of a dispute.

Consequently, the Complainant is deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent appears to have been clearly aware of the Complainant's well-known WHATSAPP Mark as all the disputed domain names are composed of the Complainant's highly distinctive and well-known WHATSAPP trademark in full with additional terms and letters added by the Respondent of no relevance in the sense of making the disputed domain names distinctive from the Complainant's trademark., as per the [WIPO Overview 3.0](#), Section 3.2.2.

It is the opinion of the Panel, that some of the terms used by the Respondent in some disputed domain names such as "pro", which is a common abbreviation for the term "professional", "apk" ("Android Package Kit"), and "download", which are particularly relevant to the Complainant's WhatsApp mobile application, create further confusion with authentic downloads and versions of the Complainant's WhatsApp goods and services.

This is corroborated by the content on each of the Respondent's websites, which is replete with references to the Complainant, misappropriates the Complainant's WHATSAPP logo, and promotes a modified unauthorized "GB WhatsApp" mobile application in direct competition with the Complainant, which is evidence of further bad faith consideration factors in the sense of the [WIPO Overview 3.0](#), Section 3.2.1.

Further, the Panel notes that the registration and commercial use of confusingly similar domain names, intending to take advantage of a complainant's mark for the respondent's commercial gain, supports a clear finding of bad faith use under Policy 4(b)(iv).

Given the composition of each of the disputed domain names, as highlighted above, and noting the Respondent's websites, the Panel finds that the Internet users are likely to be misled into believing that the Respondent's websites, along with the modified unauthorized "GB WhatsApp" applications promoted therein, are affiliated with or somehow endorsed by the Complainant which represent further indication, that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the goods and services marketed therein, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The failure of the Respondent to answer to the Complaint, is further noted by the Panel as indication of bad faith registration and use.

Also from the Respondent's conduct in this proceedings and before the proceedings, the Panel notes that it appears that the Respondent employed a privacy or proxy service merely to avoid being notified of a UDRP proceeding filed against which would support an inference of bad faith, as per [WIPO Overview 3.0](#), Section 3.6.

Consequently, given all the circumstances above, the Panel finds that the Complainant has established the third element of the Policy.

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 <downloadgbwhatsapp.co>, <downloadgbwhatsapp.com>, <downloadgbwhatsapp.me>, <downloadgbwhatsapp.org>, <downloadgbwhatsapp.pro>, <downloadgbwhatsapp.social>, <fmgbwhatsapp.com>, <gbwhatsappapk.social>, <gbwhatsappdownload.social>, <gbwhatsapppro.co>, <gbwhatsapppro.org>, <ogbwhatsapp.co>, <ogbwhatsapp.com>, <ogbwhatsapp.net>, <ogbwhatsapp.org> and <yogbwhatsapp.com> be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: January 22, 2024