

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Gulsher Khan
Case No. D2024-0910

1. The Parties

The Complainant is WhatsApp LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Gulsher Khan, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <gbwhatsappdownloadapk.net>, <gbwhatsappdownload.com>, <gbwhatsappdownload.net>, <gbwhatsappdownload.org>, <gbwhatsappdownloadpro.com>, <gbwhatsappdownloadpro.org>, <gbwhatsappupdate.net>, <gbwhatsappupdate.org> are registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 29, 2024. On March 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 6, 2024, 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 names Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 2024 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 March 18, 2024.

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 March 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 10, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on April 19, 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 the provider of the WhatsApp application, a popular mobile messaging application allowing users to exchange messages via smartphones without having to pay for short message service ("SMS") messages. The Complainant was founded in 2009 and its WhatsApp application now has over 2 billion active users worldwide.

The Complainant has registered numerous trademarks consisting of the term WHATSAPP in many jurisdictions throughout the world, including International Trademark Registration No. 1085539, WHATSAPP, registered on May 24, 2011, for goods and services in International classes 9 and 38, and European Union Trademark Registration No. 009986514, WHATSAPP, registered on October 25, 2011 in classes 9, 38, and 42. and Pakistan TradeMark Registration No. 302143, WHATSAPP, registered on February 26, 2025 in class 38.

The Complainant is also the owner of numerous domain names, consisting of the WHATSAPP trademark, under various generic Top-Level Domains ("gTLDs") as well as under many country-code Top-Level Domains ("ccTLDs").

The disputed domain names were registered on March 9, 2023, and they all redirect to a website at "www.gbwhatsapp.org.pk" which promotes and offers a download of a modified APK version of WhatsApp called "GB WhatsApp".

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 disputed domain names are confusingly similar to the trademarks in which it has rights. The disputed domain names all incorporate the Complainant's WHATSAPP trademark in its entirety. The addition of the various terms "gb", "download", "apk", "d", "pro" and "update" as well as the ".net", ".com" and ".org" gTLDs does not prevent a finding of confusing similarity under the UDRP.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not a licensee of the Complainant, nor has it been otherwise authorized or allowed by the Complainant to make any use of its WHATSAPP trademark, in a domain name or otherwise. The Respondent cannot assert that it is using the disputed domain names in connection with a bona fide offering of goods or services, or that it is making legitimate noncommercial or fair use of the disputed domain names since they are used to market a third-party stand-alone software. The Complainant also claims that the Respondent cannot legitimately claim to be commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

The Complainant submits that given the Complainant's renown and goodwill worldwide, the Respondent had actual and constructive knowledge of the Complainant and its rights at the time of registration of the disputed domain names. The content of the Respondent's website thus clearly demonstrates actual knowledge of the Complainant and its trademark, as it makes multiple references to the Complainant and purports to offer for download an unauthorized version of the Complainant's application.

The Complainant further submits, that the disputed domain name is used in bad faith. The disputed domain names all redirect to a website at "www.gbwhatsapp.org.pk" which promotes and offers a download of an unauthorized, modified APK version of WhatsApp called "GB WhatsApp" just as the website displays commercial banners which shows that the Respondent's use of the Domain Names is clearly intended for commercial gain and therefore constitutes additional evidence of bad faith use.

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 names. 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.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, gb", "download", "apk", "d", "pro" and "update", 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. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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.

Furthermore, the composition of the disputed domain names combined with the use of the disputed domain names to redirect to a website that promotes and offers download of an unauthorized, modified APK version of WhatsApp called “GB WhatsApp”, indicate an awareness of the Complainant and its trademarks and creates a risk of implied affiliation or association with the Complainant and as such, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.5.1.

Moreover, while it is possible for resellers, distributors, or service providers to use a complainant’s trademark in a domain name to make a bona fide offering of goods and services, and hence have legitimate interests in such domain name; the Respondent has failed to accurately and prominently disclose the Respondent’s lack of relationship with the Complainant so that the requirements of the so called “Oki Data test” are clearly not met in this case and as such the Respondent does not have rights or legitimate interests. [WIPO Overview 3.0](#), section 2.8.1.

Having reviewed the available records the Panel finds that 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 finds the second element of the Policy has been established.

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 it is obvious that the Respondent has full knowledge of the Complainant’s products and services and of the related trademarks and that the registrations of the disputed domain names are thus done in bad faith, and that it is equally obvious that the use of the disputed domain names to redirect to a website that promotes and offers download of an unauthorized, modified APK version of WhatsApp called “GB WhatsApp”, is bad faith registration and use.

Therefore, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or of a product or service on the Respondent’s website pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds the third element of the Policy has been established.

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 <gbwhatsappdownloadapk.net>, <gbwhatsappdownloadadd.com>, <gbwhatsappdownloadadd.net>, <gbwhatsappdownloadadd.org>, <gbwhatsappdownloadpro.com>, <gbwhatsappdownloadpro.org>, <gbwhatsappupdate.net>, and <gbwhatsappupdate.org> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: May 16, 2024