

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Jotters Tech, Jotters Tech Pvt Ltd
Case No. D2024-2571

1. The Parties

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

The Respondent is Jotters Tech, Jotters Tech Pvt Ltd, India.

2. The Domain Name and Registrar

The disputed domain name <pluswhatsapp.org> 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 June 24, 2024. On June 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 27, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On June 27, 2024, the Respondent emailed the Center asking what the matter was about and querying “what is this” in relation to the registrant information disclosed by the Registrar. On July 2, 2024, the Center acknowledged receipt of the Respondent’s emails. The Complainant filed an amended Complaint on July 2, 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 July 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 25, 2024.

No Response was filed with the Center. On July 26, 2024, the Center issued the notice of Commencement of Panel Appointment Process.

The Center appointed Adam Taylor as the sole panelist in this matter on August 6, 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 operates the well-known WHATSAPP mobile messaging app, launched in 2009. In 2023, it had over 2 billion monthly active users worldwide.

The Complainant owns many registered trade marks for WHATSAPP including United States Registration No. 3939463, registered on April 5, 2011, in class 42.

The Complainant operates a website at "www.whatsapp.com".

The disputed domain name was registered on June 25, 2023.

As of June 24, 2024, the disputed domain name resolved to a website branded "WhatsApp Plus"/"WhatsApp Plus APK" with a version of the Complainant's telephone image logo. The site purportedly offered a download of an APK (i.e., Android) version of WhatsApp called "WhatsApp Plus".

The homepage stated:

"What app do you think of? when you want to talk to someone? Whatsapp, isn't it? Indeed, WhatsApp is the most widely used messaging program [...] However, there are additional options available now, including Whatsapp plus, which has more alluring features [...]"

A part of Android software called WhatsApp Plus expands the capabilities of the standard WhatsApp application. By adding new typefaces or themes, for instance, you can greatly alter how you feel about the experience.

There are disadvantages, though. For one thing, it's not an official app. The Google Play Store does not offer a download for it. Manual download and installation are required for the APK file. Because of the possibility of information theft or device damage, you must be certain you obtained it from a reliable source."

The Respondent did not reply to the Complainant's cease and desist letter sent on June 14, 2024.

The Complainant provided evidence that the Respondent was associated with the registration of other domain names incorporating the Complainant's mark, such as the domain names <jtwhatsapp.xyz>, <ogwhatsapp.xyz>, and <whatsappplus.xyz>.

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 name.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

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 trade mark 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 trade mark 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 name. Accordingly, the disputed domain name is 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, "plus") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 recognised 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.

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 name. 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 name such as those enumerated in the Policy or otherwise.

As to paragraph 4(c) of the Policy, the Respondent is offering a service that purports to be an adjunct to, or modification of, the Complainant's own service. In the Panel's view, the Respondent's service is not a bona fide offering of goods or services, nor a legitimate non-commercial or fair use, as the Respondent is using the Complainant's mark in the disputed domain name and its website for the Respondent's own benefit to offer competing or related goods or services without any authorisation from the Complainant to do so. In particular the Respondent has failed to accurately and prominently disclose the Respondent's relationship with the Complainant. On the contrary, as explained in section 6C below, the Respondent has set out to intentionally take unfair advantage of the Complainant's trade mark, which does not amount to a bona fide offering of goods or services under the Policy.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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 considers that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of the Policy.

Not only does the disputed domain name comprise the Complainant's distinctive mark prefixed by the word "plus" denoting an enhanced version of the Complainant's service, but the Respondent has used the disputed domain name for a website that intentionally creates a likelihood of confusion with the Complainant's trade mark, including by prominent use of the Complainant's mark/logo and by the lack of any prominent disclaimer.

The likelihood of confusion is not diminished by the Respondent's acknowledgment on the home page that its app is unofficial. Not only is this statement far from prominent, paragraph 4(b)(iv) of the Policy is concerned with the intentional attracting of Internet users. Here, the Respondent set out to give at least the initial impression that it was operating a site connected with the Complainant.

The Panel also notes that, as mentioned in section 4 above, the Respondent is or was associated with at least three other domain names incorporating the Complainant's distinctive mark.

Furthermore, the Respondent has not filed a Response to deny the Complainant's assertions of bad faith or otherwise justify its registration and use of the disputed domain name.

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 name <pluswhatsapp.org> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: August 20, 2024