

ADMINISTRATIVE PANEL DECISION

WhatsApp, LLC v. Adila Ayaz, Freelance
Case No. D2024-2999

1. The Parties

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

The Respondent is Adila Ayaz, Freelance, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <anwhatsapp.pro>, <fmwhatsapp.co>, <fouadwhatsapp.download>, <gbwhatsapp.gold>, <gbwhatsappplus.org>, <gbwhatsapppros.com>, <gbwhatsapppros.net>, <gbwhatsappz.com>, <gbwhatsappz.net>, <whatsappaero.app>, <whatsappblue.org>, <whatsappgb.co>, <whatsappgold.org>, and <whatsappplus.com.co> are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2024. On July 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same date, 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, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On July 30, August 1, and August 2, 2024, the Respondent sent several informal email communications to the Center. The Complainant filed an amended Complaint on August 7, 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 August 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2024. The Respondent did not submit any formal response. On September 10, 2024, the Center informed the Parties that it would proceed to panel appointment pursuant to paragraph 6 of the Rules.

The Center appointed Ian Lowe as the sole panelist in this matter on September 23, 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, WhatsApp LLC, is a provider of one of the world's most popular mobile messaging applications (or "apps"). Founded in 2009 and acquired by Meta Platforms, Inc. (Meta (formerly known as Facebook, Inc.)) in 2014, WhatsApp allows users across the globe to exchange messages for free via smartphones, including iPhone and Android. Its main website available at "www.whatsapp.com" also allows Internet users to access its messaging platform. The app has over 2 billion monthly active users worldwide (as of 2023).

The Complainant is the proprietor of many registered trademarks around the world for WHATSAPP (the "Mark"), including United States trademark number 3939463 registered on April 5, 2011; Pakistan trademark number 302143 registered on May 27, 2011; and European Union trademark number 009986514 registered on October 25, 2011.

The Complainant is also the proprietor of registered trademarks in respect of its telephone handset logo (the "WhatsApp Logo"):



including European Union trademark number 010496602 registered on May 18, 2012.

It is the owner of a number of domain names comprising WHATSAPP, including <whatsapp.com>.

The disputed domain names were registered on various dates between June 2023 and March 2024. They currently resolve as follows:

503 error:
<whatsappaero.app>

Do not resolve to an active website:
<gbwhatsapp.gold>
<fmwhatsapp.co>
<gbwhatsappz.com>

Shows message "The content of the page cannot be displayed":
<gbwhatsappplus.org>
<gbwhatsappz.net>
<gbwhatsapppros.net>

Notice from anti-virus software blocking access and warning that the website contains malicious code:
<fouadwhatsapp.download>

Redirects to website at “www.gbwhatsappproz.com” offering a download of the GBWhatsApp Pro application:

<whatsappblue.org>

<anwhatsapp.pro>

<whatsappgb.co>

Redirects to website at “www.whatsappplus.plus” in Spanish language offering download of WhatsApp Plus application:

<whatsappplus.com.co>

Website in Arabic language offering download of Golden WhatsApp application:

<whatsappgold.org>

Website offering download of GBWhatsApp Pro application:

<gbwhatsapppros.com>

At the time of preparation of the Complaint, according to the evidence provided by the Complainant, the disputed domain names resolved as follows:

Resolved to websites purportedly offering download of various modified versions of WhatsApp app:

<anwhatsapp.pro>, <gbwhatsapppros.com>, <gbwhatsappz.com>, <whatsappgold.org>,

<whatsappplus.com.co>

Did not resolve to any active website:

<fmwhatsapp.co>, <gbwhatsapp.gold>, <gbwhatsappplus.org>, <gbwhatsapppros.net>, <gbwhatsappz.net>,

<whatsappaero.app>

Redirected to a third-party website:

<fouadwhatsapp.download>, <whatsappblue.org>, <whatsappgb.co>.

The various applications, offered by the websites referred to, comprise third-party standalone software promoted as offering the features of the Complainant’s WhatsApp app together with additional addons.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its WHATSAPP trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

The Respondent did not substantively reply to the Complainant’s contentions. In its emails to the Center on July 30, August 1, and August 2, 2024, the Respondent raised queries as to the Center’s emails and the impact of the Registrar’s “lock” on the disputed domain names.

6. Discussion and Findings

For this Complaint to succeed in relation to the disputed domain names, the Complainant must prove that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are 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 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.

Ignoring the generic Top-Level Domains ".pro", ".download", ".gold", ".org", ".com", ".app", and ".net", and the country-code Top-Level Domains ".co" and ".com.co", the disputed domain names each comprise the entirety of the Mark with the addition of, variously, the terms "an", "fm", "fouad", "gb", "plus", "pros", "z", "aero", "blue", "gold". In the Panel's view, such additions do not prevent a finding of confusing similarity between the disputed domain names and the Mark. [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. Accordingly, 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 disputed domain names, variously, were not being used for an active website; or redirected or resolved to websites offering a third-party application for download. The inactive disputed domain names cannot in the Panel's view indicate rights or legitimate interests.

The active websites feature the Complainant's WHATSAPP mark and/or the modified WhatsApp Logo and the offered applications are unauthorised and unlicensed versions of the Complainant's application and have names that comprise the Mark. The Complainant has not authorised the Respondent to use the Mark or to register the disputed domain names and the active websites are without any disclaiming statement as to this lack of relationship.

The Panel does not consider that such activity could amount to the bona fide offering of goods or services and could not possibly give rise to rights or legitimate interests in such disputed domain names on the part of the Respondent. Rather such use clearly demonstrates the Respondent's intent to mislead Internet users expecting to find the Complainant and are rather confronted with third-party services or inactive websites.

Having reviewed the available evidence, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in any of 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 in respect of each of the disputed domain names.

C. Registered and Used in Bad Faith

In light of the composition of the disputed domain names and the use to which the Respondent has put a number of the disputed domain names, there can be no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the disputed domain names. As a result of the longstanding and widespread use of the Mark by the Complainant, it has become exclusively associated with the Complainant.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Since all of the disputed domain names comprise the entirety of the Mark, the obvious inference is that the Respondent registered the disputed domain names with a view to taking unfair advantage of the Complainant's Mark. Its aim was to confuse Internet users into believing that the disputed domain names were being operated by or authorized by the Complainant.

The Panel considers that the use of disputed domain names for active websites offering the download of an unauthorised, unlicensed version of the Complainant's application used by billions of users worldwide, implies a risk that such applications may be designed to phish for the personal data of WhatsApp users or may cause users to download malware. The fact that a number of the disputed domain names resolve to webpages whose contents cannot be displayed, does not prevent a finding of bad faith.

In respect of those disputed domain names that do not resolve to an active website, the Panel cannot conceive of a legitimate use to which the Respondent could put those domain names. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available evidence, the Panel notes the distinctiveness and reputation of the Complainant's Mark, and the composition of the disputed domain names in question and finds that in the circumstances of this case the passive holding of those disputed domain names does not prevent a finding of bad faith under the Policy.

Accordingly, the Panel finds that the Complainant has established the third element of the Policy in respect of each of the disputed domain names.

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 <anwhatsapp.pro>, <fmwhatsapp.co>, <fouadwhatsapp.download>, <gbwhatsapp.gold>, <gbwhatsappplus.org>, <gbwhatsapppros.com>, <gbwhatsapppros.net>, <gbwhatsappz.com>, <gbwhatsappz.net>, <whatsappaero.app>, <whatsappblue.org>, <whatsappgb.co>, <whatsappgold.org>, and <whatsappplus.com.co> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: October 7, 2024