

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Navid Ur Rahman, Navisoft Digital Services
Case No. D2024-3450

1. The Parties

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

The Respondent is Navid Ur Rahman, Navisoft Digital Services, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <whatsapp.health> 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 August 23, 2024. On August 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 23, 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 August 27, 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 August 28, 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 19, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on September 27, 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 provider of one of the world's most popular mobile messaging applications. Founded in 2009 and acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) in 2014, WhatsApp allows users across the globe to exchange messages for free via smartphones, including iPhone and Android.

The Complainant owns in particular the following trademark registrations:

- United States trademark registration for "WHATSAPP" No. 393,946,3, registered on April 5, 2011 in class 42;
- Pakistani trademark registration for "WHATSAPP" No. 302143, registered on February 26, 2015 in class 38; and
- European Union trademark registration for "WHATSAPP" No. 009986514, registered on October 25, 2011 in classes 9, 38 and 42.

The disputed domain name was registered on May 13, 2024.

The disputed domain name redirects to a parking page that states "This domain is registered, but may still be available".

Between June 7, 2024, and August 4, 2024, the Complainant's representatives and the Respondent engaged in communications in an attempt to resolve the matter amicably. The Respondent expressed a willingness to sell the disputed domain name to the Complainant for a "fair compensation arrangement". The Respondent indicated that he would be prepared to sell the disputed domain name for USD 1'000, and threatened to create a landing page for the disputed domain name if the Complainant would not accept his offer. The Parties were unable to reach an agreement, and the Complaint was filed.

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.

With respect to the first element, the Complainant contends that the disputed domain name is identical to its WHATSAPP trademark.

With respect to the second element, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent has not received any license or authorization from the Complainant to use any domain name featuring its mark; (ii) the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services; (iii) the Respondent is not commonly known by the disputed domain name or any variant thereof, and (iv) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits also with respect to the second element that the nature of the disputed domain name, which incorporates the Complainant's WHATSAPP trademark in its entirety, coupled with the Respondent's offer to sell the disputed domain name to the Complainant for an amount in excess of the

Respondent's out-of-pocket costs, supports the inference that the Respondent registered the disputed domain name in light of its value corresponding to the Complainant's trademark. As such, the Respondent's holding of the disputed domain name, ostensibly for purposes of resale to the Complainant, does not amount to a bona fide offering of goods or services. Furthermore, the Complainant submits that in light of the nature of the disputed domain name, incorporating the Complainant's WHATSAPP trademark in its entirety, the disputed domain name carries with it a high risk of implied affiliation with the Complainant and the Respondent cannot plausibly make any fair use of the disputed domain name that would not tend to suggest affiliation with the Complainant.

With respect to the third element, the Complainant contends that the disputed domain name was registered in bad faith, given that its WHATSAPP trademark is inherently distinctive and widely known throughout the world. The Complainant also contends that the disputed domain name was registered in bad faith. The Respondent's repeated offers to sell the disputed domain name to the Complainant for USD 1,000 support the inference that the Respondent registered the Domain Name opportunistically, primarily for the purpose of selling it to the Complainant, or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the Domain Name, in bad faith pursuant to paragraph 4(b)(i) of the Policy

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 domain name; and
- (iii) the domain name registered by the respondent 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 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.

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

It is generally accepted that the applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. In the present case, the TLD ".health" may be disregarded.

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.

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.

Indeed, the Respondent has not demonstrated any use or preparations to use the disputed domain name in connection with a bone fide offering of goods or services, or any other right or interest to the disputed domain name. In reply to a cease and desist communication from the Complainant, the Respondent admitted that the disputed domain name refers to the Complainant’s WHATSAPP trademark and offered to transfer the disputed domain name to the Complainant for an amount greater than the out-of-pocket costs associated with the registration of the disputed domain name. Moreover, the Respondent threatened to put the disputed domain name to use (potentially in such a way that it would imply an affiliation with the Complainant’s messaging service) if the Complainant would not accept the requested price. In the Panel’s view, such behavior does not suggest any legitimate right or interest in the disputed domain name.

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.

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.

In the present case, the Panel is convinced that the Respondent was aware of the Complainant’s trademark at the time it registered the disputed domain name, given the identical nature of the disputed domain name and the distinctive nature of the Complainant’s trademark mark, and its well-known character throughout the world.

Furthermore, the Complainant has demonstrated that the Respondent offered to sell the disputed domain name to the Complainant for the amount of USD 1’000. On the balance of probabilities, the Panel finds it likely that the Respondent has registered or acquired the disputed name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of his documented out-of-pocket costs directly related to the disputed domain name. The Panel, therefore, finds that bad faith has been demonstrated under 4(b)(i) of the Policy.

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 <whatsapp.health> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: October 11, 2024