

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Faheem Lashari

Case No. D2024-4186

1. The Parties

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

The Respondent is Faheem Lashari, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <bluewhatsappplus.com> and <bluewhatsappplus.net> are registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2024, including the disputed domain names and one additional domain name. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 12, 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 named Respondent (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot and Whois Privacy Protection Foundation) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 14, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on October 21, 2024, and a request to withdraw one domain name with different underlying registrant details from the Complaint. The partial withdrawal was duly notified on October 22, 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 October 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 14, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on November 21, 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

According to information in the Complaint, the Complainant is a provider of one of the world's most popular mobile messaging applications, which was founded in 2009 and acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) (Meta) in 2014. It allows users across the globe to exchange messages for free via smartphones, including iPhone and Android. Since its launch in 2009, WhatsApp has become one of the fastest growing and most popular mobile applications in the world, with over 2 billion monthly active users worldwide (as of 2023). WhatsApp is the 4th most downloaded application for iOS phones worldwide according to applications information company Data.ai.

The Complainant proved ownership of many WHATSAPP trademarks, including the United States trademark No. 3,939,463 registered on April 5, 2011, in class 42, the European Union trademark No. 009986514 registered on October 25, 2011, in classes 9, 38, and 42, or the International trademark No. 1085539 registered on May 24, 2011, in classes 9 and 38. Also, the Complainant has registered various trademarks consisting of WHATS, including the European Union trademark No. 017923676, registered on March 8, 2019, in classes 9, 35, and 42. The Complainant owns and operates numerous domain names consisting of the WHATSAPP trademark, including the domain name <whatsapp.com> which allows Internet users to access its messaging platform.

The Respondent is reportedly an individual located in Pakistan.

The disputed domain name <bluewhatsappplus.com> was registered on December 24, 2023, and resolves to a webpage titled "Blue WhatsApp Plus APK Download v11.61 Latest Version (Official)" that purports to offer for download a modified version of the Complainant's WhatsApp application, referred to as "Blue WhatsApp Plus" which the Complainant alleges to be unauthorized. The website also features the Complainant's WHATSAPP trademark and a logo and favicon that is very similar to its logo and favicon. The disputed domain name <bluewhatsplus.net> was registered on March 27, 2024, and before the Complaint it was used to redirect to a website that purported to offer for download what the Complainant purports to have been an unauthorized modified WhatsApp APK (which apparently stands for Android Package Kit) and at the date of the Decision it no longer resolves to an active webpage.

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 it has established trademark rights in WHATSAPP and WHATS for the purposes of paragraph 4(a)(i) of the Policy. Further, the Complainant submits that the disputed domain names are confusingly similar to the Complainant's trademarks in accordance with paragraph 4(a)(i) of the Policy, as the disputed domain name <bluewhatsplus.net> incorporates the Complainant's WHATS trademark and the dominant part of the Complainant's WHATSAPP trademark, preceded by the term "blue"

and followed by the term “plus”, while the disputed domain name <bluewhatsappplus.com> incorporates the Complainant’s WHATSAPP trademark, preceded by the term “blue” and followed by the term “plus”.

As regards the second element, the Complainant argues that the Respondent is not a licensee of the Complainant and is not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its WHATSAPP or WHATS trademarks, in a domain name or otherwise. The Complainant further submits that the websites at the disputed domain names purport to offer or to have offered for download an unauthorized modified APK version of the Complainant’s WhatsApp application. Such modified versions of the WhatsApp application are not authorized by the Complainant and violate its Terms of Service. Furthermore, the Complainant submits that the Respondent cannot be viewed as a bona fide service provider as it does not offer for download the Complainant’s WhatsApp application, but rather purports to offer for download unauthorized APK versions of the Complainant’s WhatsApp application using the Complainant’s WHATSAPP and WHATS trademarks. Nevertheless, even if one is to apply the Oki Data criteria, the Respondent fails to fulfil the first and third criteria, as: (i) the websites at the disputed domain names purport to offer or to have offered for download a third-party APK version of the Complainant’s WhatsApp application, therefore the Respondent cannot be said to be using the Respondent’s websites to offer the goods or services at issue, namely the WhatsApp application, (ii) the mentioned websites prominently display or displayed the Complainant’s WHATSAPP trademark and modified versions of the Complainant’s WHATSAPP figurative trademark and logo, including as favicons, without a disclaimer.

With respect to the third element, the Complainant submits that given the Complainant’s renown and goodwill worldwide and its trademark rights established long before the registration of the disputed domain names, the Respondent could not credibly argue that he did not have knowledge of the Complainant’s WHATSAPP trademark when he registered the disputed domain names in December 2023 and March 2024 respectively. Also, the nature of the Respondent’s websites clearly demonstrate the Respondent’s actual knowledge of the Complainant and its trademarks and its intention to target the Complainant. As regards the use, the Complainant argues that by the use as described above, the Respondent has intentionally attempted to attract Internet users to online locations by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation or endorsement of the website, in bad faith pursuant to paragraph 4(b)(iv) of the Policy. Moreover, the Respondent’s websites feature modified versions of the Complainant’s WHATSAPP logo and figurative trademark, thereby creating a misleading impression of association with the Complainant in bad faith. Furthermore, as the Respondent was named in prior domain name dispute resolution cases and was found to be targeting the Complainant and its related company, Instagram LLC, the Complainant argues that the Respondent has therefore engaged in a pattern of trademark abusive registration which amounts to further evidence of the Respondent’s bad faith.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademarks WHATSAPP and WHATS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the trademarks WHATSAPP and WHATS are recognizable 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, "blue" and "plus" in the disputed domain names) 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 respective marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is the settled view of panels applying the Policy that the Top-Level Domain ("TLD") (here ".com" and ".net") should be disregarded under the first element test.

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 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.

According to the un rebutted evidence of the Complainant, the websites at the disputed domain names are or were used to allegedly offer or to have offered for download a third-party APK version of the Complainant's WhatsApp application. The Complainant denies extending an authorisation to the Respondent in this respect. On these websites, a logo in white and blue, apparently imitating the original Complainant's logo in white and green also is being displayed in a clear attempt to profit from this imitation. Such use could incorrectly suggest that the website is operated by an affiliate of the Complainant and does not amount in the Panel's view to a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. Also, there is no disclaimer on the websites as to lack of any relationship or authorisation from the Complainant. Furthermore, the nature of the disputed domain names, that include the Complainant's well-established trademarks, carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant.

See section 2.5.1 of the [WIPO Overview 3.0](#).

Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

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.

The Complainant's registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain names. The disputed domain names resolve or redirected to websites reproducing the Complainant's trademark and logo and purporting to offer similar services to those of the Complainant. Given the distinctiveness and extensive use of the Complainant's trademark, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademarks, and to target those trademarks.

As regards the use, the disputed domain names resolve or redirected to a website where the Complainant's trademark and logo were displayed while purporting to offer for download unauthorized modified WhatsApp APK. The Panel is of the view that in light of the Respondent's use of the disputed domain names, paragraph 4(b)(iv) of the Policy applies, in that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

Also, there appears to be a pattern of abusive registrations by the Respondent, as the unrebutted evidence submitted by the Complainant shows that the Respondent was involved in at least two previous UDRP proceedings where similar factual situations caused the concerned UDRP panels to decide in favor of the complainant (See *Instagram, LLC v. Faheem Lashari*, WIPO Case No. [D2024-2912](#)). This fact also supports a finding grounded on paragraph 4(b)(ii) of the Policy, referring to a respondent registering "the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct".

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

The current passive holding of the disputed domain name <bluewhatsplus.net> does not, in the circumstances of this case, prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. Also, the record in the present case shows that: (i) the trademark of the Complainant is distinctive and widely used in commerce, (ii) the disputed domain name is confusingly similar to the Complainant's trademark, and (iii) the disputed domain name resolved to competing services to confuse and mislead Internet users before the disputed domain name led to an inactive page. In light of these specific circumstances, the Panel concludes that the Respondent's prior use of the disputed domain name <bluewhatsplus.net> and its current passive holding of the disputed domain name <bluewhatsplus.net> in the present matter also satisfies the bad faith requirement of paragraph 4(a)(iii) 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 names <bluewhatsappplus.com> and <bluewhatsplus.net> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: December 5, 2024