

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. GB Apps, Apps.Pk
Case No. D2024-4192

1. The Parties

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

The Respondent is GB Apps, Apps.Pk, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <downloadgbwhatsapp.net> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2024. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 12, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 14, 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 October 16, 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 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 11, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on November 15, 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 a popular mobile messaging application. It was founded in 2009 and acquired by Meta Platforms, Inc. in 2014. The Complainant owns trademark registrations for WHATSAPP in many jurisdictions including Pakistani Trademark Registration No. 302143, WHATSAPP, registered on May 27, 2011; International Trademark Registration No. 1085539, WHATSAPP, registered on May 24, 2011; United States Trademark Registration No. 3939463, WHATSAPP, registered on April 5, 2011; and Indian Trademark Registration No. 2149059, WHATSAPP, registered on May 24, 2011.

The Complainant's main website is at "www.whatsapp.com" and the Complainant is the owner of many further domain names, comprising its WHATSAPP trademark, under various generic Top-Level Domains as well as under country code Top-Level Domains.

The disputed domain name was registered on November 13, 2022. The disputed domain name currently redirects to a website which promotes and offers for download a modified version of a WhatsApp application.

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.

Notably, the Complainant contends that the registered trademark WHATSAPP has an acquired considerable reputation and goodwill worldwide, including in Pakistan where the Respondent appears to be based. The Complainant points out that it has consistently been ranked amongst the most popular free mobile applications.

The Complainant asserts that the disputed domain name currently redirects to a website at "https://gbapp.com.pk/" which promotes and offers for download a modified "APK3" version of WhatsApp known as "GBWhatsApp". The Complainant says that this unauthorized WhatsApp APK purports to provide functionalities that go beyond those offered in the official WhatsApp application. The Complainant points out that the Respondent's website makes multiple references to the Complainant's WHATSAPP registered trademark and prominently displays the Complainant's figurative telephone trademark logo. It also makes use of the same green-and-white colour scheme used by the Complainant. The Complainant points out that the Respondent's website includes a "Disclaimer" page, which however does not clarify the absence of a relationship between the Respondent and the Complainant.

On March 11, 2024, the Complainant sent a cease and desist letter to the Respondent via the email address displayed on the Respondent's website at "https://gbapps.ind.in/" (to which the disputed domain name resolved at that time), but the Respondent never responded to this letter. Further, the Complainant asserts that the Respondent was named as the respondent in five prior cases, in each of which the relevant Panel ordered the transfer of the disputed domain name to the Complainant or the Complainant's related company, Instagram LLC.

The Complainant asserts that it has relevant registered trademark rights in WHATSAPP and that the inclusion of the WHATSAPP trademark in its entirety in the disputed domain name is sufficient to establish confusing similarity. The Complainant submits that the addition of the term "download" and two letters "gb"

does not prevent a finding of confusing similarity with the Complainant's WHATSAPP trademark, which remains recognizable.

The Complainant further submits that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way, and the latter says that it has not granted any authorization to the Respondent to make use of its trademarks, incorporated in a domain name or otherwise.

The Complainant then also submits that the Respondent is not a bona fide service provider, as it is not providing sales or repairs in relation to a product provided by the Complainant. Rather, the Respondent is making unauthorized use of the Complainant's trademarks to promote a third-party modified version of WhatsApp. The Complainant says that even if one were to apply *Oki Data* criteria, the Respondent at least fails to fulfil the first and third criteria, as it is clear that the website does not prominently disclose its lack of relationship with the Complainant. The latter adds that the Respondent's use of the disputed domain name to promote the downloading of an unauthorized APK bearing the WHATSAPP trademark, in breach of the Complainant's Terms of Service, cannot be considered as bona fide under the Policy.

Further, the Complainant points out that neither the Respondent's name "GB Apps" nor the organization name "Apps.Pk" bears any resemblance to the disputed domain name. To the best of the Complainant's knowledge, the Respondent has not secured or sought to secure any trademark rights in the term "whatsapp" or "gbwhatsapp". Furthermore, the Respondent's use of the disputed domain name does not support any reasonable claim of being commonly so known, nor does it give rise to any reputation in the domain name itself, independent of the Complainant's trademark rights.

Further, the Complainant submits that the Respondent could not credibly argue that it did not have knowledge of the Complainant or its trademarks when registering the disputed domain name in 2022, given how distinctive and widely recognized the WHATSAPP trademark is. Furthermore, the content of the Respondent's website demonstrates the Respondent's knowledge of the Complainant and its trademarks.

The Complainant further submits that the Respondent has engaged in a pattern of conduct by successively registering domain names targeting the Complainant or the Complainant's related company's trademarks (as evidenced by its involvement as the respondent in five prior panel decisions as), which clearly indicates bad faith under the Policy. The use of a proxy service and incomplete address details by the Respondent further indicate bad faith, according to the Complainant.

Furthermore, the Respondent's use of the disputed domain name to offer an unauthorized modified APK version under the Complainant's trademark disrupts the Complainant's business by driving WhatsApp users to third-party applications. Finally, the Complainant submits that the Respondent's failure to respond to the cease and desist letter sent by the Complainant's lawyers also indicates bad faith.

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 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 registered 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 and is recognizable 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 “downloadgb”, may bear on assessment of the second and third elements, the Panel finds that the addition in the present disputed domain name 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 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 advanced any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The disputed domain name redirects to a website which promotes and offers for download a modified version of the Complainant’s WhatsApp product known as “GBWhatsApp”. That website, which is used to promote a third-party modified version of WhatsApp, makes multiple references to the Complainant’s WHATSAPP registered trademark without having received the Complainant’s authorization to do so. It also displays the Complainant’s logo and uses the same green-and-white colour scheme. The Respondent does not in any way indicate that there is no agreed relationship between the Respondent and the Complainant.

There is no evidence before the Panel that the Respondent is known by the disputed domain name or anything related to the term “whatsapp”. Deliberate and deceptive attempts to suggest a legitimate connection with a Complainant can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 the Complainant's WHATSAPP trademarks were well established and very widely known when the Respondent registered the disputed domain name in 2022. It is almost inconceivable that the Respondent was unaware of the relevant exclusive rights vesting in a third-party, that being the Complainant. The composition of the disputed domain name, and its subsequent use further underscore the fact that the disputed domain name was registered in bad faith, and with an eye to deceiving Internet users.

The use of the disputed domain name to promote the downloading of an unauthorized application bearing the WHATSAPP trademark is use in bad faith. It seeks to create the impression of an affiliation or other legitimate relationship with the Complainant. Such a relationship does not in fact exist. Additionally, the Respondent has engaged in these types of actions before so that it can be said that there is a pattern of conduct that is deceitful and aimed at taking unfair advantage of the reputation of third-party trademarks.

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 <downloadgbwhatsapp.net> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: November 22, 2024