

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Shoaib Ahmed
Case No. D2024-3008

1. The Parties

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

The Respondent is Shoaib Ahmed, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <whatsappplus.app> and <whatsappplus.top> are registered with Dynadot 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 July 24, 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 contact information in the Complaint. The Center sent an email communication to the Complainant on July 26, 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 July 31, 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 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 27, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on September 2, 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 (formerly incorporated as WhatsApp, Inc.) is a provider of one of the world's most popular mobile messaging applications WhatsApp with over two billion monthly active users worldwide (as of 2023). Founded in 2009 and acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) in 2014 WhatsApp allows users to exchange messages for free via smartphones.

The Complainant owns numerous domain names comprising its WHATSAPP mark under various generic Top-Level Domains (gTLDs) as well as under many country code Top-Level Domains (ccTLDs). The Complainant's main website is available at "www.whatsapp.com" at which Internet users can access its messaging platform. The corresponding domain name <whatsapp.com> has been registered since September 4, 2008.

The Complainant also has a strong presence on various social media platforms. It has more than 5.5 million followers on X (formerly Twitter) and almost 5 million subscribers on You Tube and its Facebook page has over 35 million "likes".

The Complainant is among others the owner of the following trademark registrations:

- United States Trademark Registration No. 3939463 for the word mark WHATSAPP registered since April 5, 2011, and
- United States Trademark Registration No. 4359872 for a figurative mark consisting of a green speech bubble outlined in white with a telephone in the center ("the logo") registered since July 2, 2013.

The disputed domain names were registered on July 26, 2023.

The disputed domain name <whatsappplus.app> has been resolving to a Spanish language website entitled "WhatsApp Plus" featuring the Complainant's mark and a close variation of its logo and purportedly offers for download an unauthorized, modified APK (Android Package Kit) version of the WhatsApp application.

The screen captures submitted by the Complainant show that on May 3, 2024, the disputed domain name <whatsappplus.top> resolved to an English language website entitled "WhatsApp Plus" featuring the Complainant's mark and a close variation of its logo and purportedly offered for download an unauthorized, modified APK version of the WhatsApp application.

The Respondent's websites at the disputed domain names included the following statement:
"Disadvantages of WhatsApp Plus Increased likelihood of bugs, malware and data theft, as the app is not reviewed as official WhatsApp."

Currently the disputed domain names do not appear to resolve to active websites.

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:

- the disputed domain names which are formed of its WHATSAPP mark followed by the term “plus” are confusingly similar to the Complainant’s trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the Respondent must have been aware of the Complainant’s WHATSAPP mark at the time of registration of the disputed domain names given the global renown of the mark and the use of the disputed domain names for promoting an unauthorized modified version of the WHATSAPP application, violating the Complainant’s Brand Guidelines and Terms of Service, which may place the privacy and security of potential Internet users at risk.

The Complainant requests that the disputed domain names be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed with the Complaint, namely that:

- (i) the 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 domain names; and
- (iii) the 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.

The Complainant’s WHATSAPP mark is reproduced and is 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 the term “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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds that 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.

The Respondent is not affiliated with the Complainant in any way and has never been authorized by the Complainant to register and use any domain name incorporating its WHATSAPP mark.

Under the circumstances of the case the use of the disputed domain names for websites that prominently displayed the Complainant’s WHATSAPP mark and a close variation of its signature logo and apparently promoted an unauthorized modified version of the Complainant’s WHATSAPP application does not amount to a bona fide offering of goods and services or legitimate noncommercial use, despite the disclaimer in the disputed domain names.

In addition, the composition of the disputed domain names, namely consisting of the Complainant’s mark plus an additional term, supports the finding of the risk of implied affiliation of the disputed domain names with the Complainant and thus cannot confer any rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that 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 due to the global reach and popularity of the Complainant’s application, the WHATSAPP mark has become well-known (see also *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. [D2015-0909](#); *WhatsApp Inc. v. Sudheer Kumar*, WIPO Case No. [D2019-1632](#) and *WhatsApp Inc. v. Vipul Singh*, WIPO Case No. [D2020-0903](#)) long before the registration of the disputed domain names.

Further, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent has replicated the well-known WHATSAPP mark in the disputed domain names. The websites at the disputed domain names prominently featured the Complainant’s mark and a close

variation of its signature logo, and multiple references to the Complainant's own WHATSAPP application. Hence, in the Panel's view the Respondent clearly had the Complainant and its marks in mind at the time of registration and that it has registered and used the disputed domain names in order to target the Complainant and its well-known mark within the meaning of paragraph 4(b)(iv) of the Policy.

In addition, as mentioned above, on the websites at the disputed domain names the Respondent itself specifically acknowledged that downloading of its application may provide malware and result in data theft, which further supports the Respondent's bad faith use of the disputed domain names. [WIPO Overview 3.0](#), section 3.4.

The fact that the disputed domain names currently do not appear to be resolving to an active websites does not prevent a finding of bad faith. The Complainant's WHATSAPP mark is distinctive and enjoys worldwide reputation; the Respondent failed to submit a response or to provide any evidence of actual or contemplated good faith use and the Panel is unable to conceive of a realistic good faith use to which the Respondent could put the disputed domain names. [WIPO Overview 3.0](#), section 3.3.

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 <whatsappplus.app> and <whatsappplus.top> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: September 16, 2024