

ADMINISTRATIVE PANEL DECISION

WhatsApp, LLC v. Faheem Lashari
Case No. D2024-3020

1. The Parties

The Complainant is WhatsApp, LLC, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Faheem Lashari, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <mbwhatsappios.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 July 24, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 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 (DT), 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 amendment to the Complaint on July 26, 2024.

The Center verified that the Complaint together with the amendment to the 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 July 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 20, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on August 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 develops and operates the WhatsApp messaging and voice-over-IP service and mobile application with close to three billion users in over 180 countries of the world.

The Complainant has 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 YouTube 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 name was registered on June 5, 2024 and at the time of filing of the Complaint resolved to a website that featured the Complainant’s mark and a close variation of its logo and promoted an unauthorized modified version of the Complainant’s WHATSAPP application called “MBWhatsApp”. The website at the disputed domain name also featured hyperlinks to the Respondent’s unauthorized modified applications of third parties.

Further, according to the Panel’s independent search, the disputed domain name returns a webpage at which the Internet security vendor ESET, s.r.o., a software company specializing in cybersecurity, alerts the visitor on the potentially high risk of phishing. The alert states that the disputed domain name “attempts to trick visitors into submitting personal information, such as login information or credit card numbers”.

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 disputed domain name which is composed of its WHATSAPP mark preceded by the letters “mb” and followed by the term “ios” is confusingly similar to the trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name 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 its WHATSAPP mark at the time of registration of the disputed domain name given the global renown of the mark, and the use of the disputed domain name for promoting unauthorized modified version of its WHATSAPP application violates the Complainant’s own Terms of Services and may place the privacy and security of potential users at risk.

The Complainant requests that the disputed domain name 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 on the complaint, namely that:

- (i) the domain name is 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 name; and
- (iii) the domain name 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 Complainant's WHATSAPP 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 the letters "mb" and the term "ios" (which commonly stands for "iPhone Operating System") 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 name 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 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.

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

Under the circumstances of the case, the use of the disputed domain name for a website that prominently displays the Complainant's WHATSAPP mark and a close variation of its signature logo and apparently promotes an unauthorized modified version of the Complainant's WHATSAPP application and provides hyperlinks to the Respondent's unauthorized modified applications of third parties does not amount to a bona fide offering of goods and services or legitimate noncommercial fair use.

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 its global reach and popularity 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 name.

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 name. The website at the disputed domain name prominently features 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 name in order to target the Complainant and its well-known mark within the meaning of paragraph 4(b)(iv) of the Policy.

As evidenced by the Complainant, the disputed domain name has been reported as containing malware by one security vendor and in addition, the disputed domain name is currently flagged as a high security risk for phishing. These facts are, in view of the Panel, further indication of the Respondent's bad faith.

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 <mbwhatsappios.net> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: September 5, 2024