

ADMINISTRATIVE PANEL DECISION

Whatsapp LLC v. C/O Private Ranger Limited, Registrant of
whatsappstatus.live
Case No. D2022-1270

1. The Parties

The Complainant is Whatsapp LLC, United States of America (“United States”), represented by Tucker Ellis LLP, United States.

The Respondent is C/O Private Ranger Limited, Registrant of whatsappstatus.live, New Zealand.

2. The Domain Name and Registrar

The disputed domain name <whatsappstatus.live> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 13, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 14, 2022 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 April 19, 2022. On the same day, the Center received an informal communication from an unconfirmed email address acting as the Respondent and wanting to resolve the case amicably.

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 April 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 17, 2022. The Respondent did not submit any formal response. Accordingly, the Center notified the Respondent’s default on May 25, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on June 2, 2022. 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.

On June 2, 2022, the Center received a further informal communication.

4. Factual Background

The Complainant operates the WhatsApp messaging and voice over IP service and mobile application. It has about 2 billion customers in over 180 countries using the Complainant's services. *Inter alia* the Complainant's application has a status feature, which permits users to share text, photo, video, and GIF updates that other users may view and interact with.

The Complainant owns numerous WHATSAP trademark registrations in various jurisdictions, including for instance the United States registration No. 3939463, registered on April 5, 2011.

In addition to the <whatsapp.com> domain name, the Complainant owns and operates numerous other domain names consisting of the WHATSAPP trademark in combination with various generic and country code Top-Level Domains, including <whatsapp.net>, <whatsapp.org>, and <whatsapp.us>.

The disputed domain name was registered on May 3, 2019, and resolves to a website offering various statuses for use with the Complainant's application, and contains advertisements with links to third party services. The website also features the Complainant's trademark and logo.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's trademark. The disputed domain name incorporates the Complainant's trademark in its entirety as the dominant element, and the additional term "status" does not serve sufficiently to distinguish or differentiate the disputed domain name from the Complainant's trademark, especially as "status" is descriptive of and relevant to the Complainant's services. The addition of a generic Top-Level Domain ("gTLD") has no distinguishing value as well.

The Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has not licensed nor authorized the Respondent to use the Complainant's trademark, nor does the Respondent have any legal relationship with the Complainant that would entitle the Respondent to use the Complainant's trademark. Neither the registration data for the disputed domain name nor the corresponding website available at the disputed domain name supports that the Respondent is known by the disputed domain name. The Complainant is not aware of the Respondent being known by the disputed domain name in any other way. The Respondent has no legitimate reason for using the Complainant's trademark in the disputed domain name, and instead, the Respondent is using the disputed domain name to impersonate the Complainant and direct users to a commercial website featuring numerous advertisements and displaying links that appear to download files directly to a user's device.

The disputed domain name was registered and is being used in bad faith. The Respondent has registered the confusingly similar disputed domain name, and uses it to direct users to a website with various status suggestions for use with the Complainant's application, and that displays advertisements that presumably generate click-through revenue for the Respondent. Additionally, some of the links appear to enable downloading of files directly onto users' devices, which consumers will likely believe are affiliated with the Complainant. To further create a likelihood of confusion, the Respondent repeatedly uses the Complainant's trademark throughout its website and also uses the Complainant's registered telephone logo mark. The only

reason for the Respondent's registration of the disputed domain name, which includes the exact Complainant's trademark, is to create a likelihood of confusion with the Complainant and its trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website with the Complainant. The Respondent registered the disputed domain name with actual knowledge of the Complainant's rights as evidenced by the Respondent's use of the Complainant's trademark on the resolving website to impersonate the Complainant. Given the fame of the Complainant's trademark, and the Respondent's unauthorized incorporation of the exact mark into the disputed domain name, there are no circumstances under which the Respondent's use of the disputed domain name could plausibly be in good faith. The Respondent's bad faith is also evidenced by the Respondent's registration of other domain names which infringed the rights of famous and distinctive trademark owners addressed in previous UDRP proceedings.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. However, the first informal communication noted that the disputed domain name has been used for the last four years to post unique images/text for use by Internet users as their status on the Complainant's application. Also, that there was no intention to mislead Internet users or to violate intellectual property rights of the Complainant, and a suggestion to settle the matter amicably. The later informal communication noted that the disputed domain name already expired and was disconnected from hosting.

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable gTLD 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. Thus, the Panel disregards gTLD ".live" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The Panel finds that in the present case the addition of descriptive term "status" does not prevent finding of confusing similarity between the disputed domain name and the Complainant's trademark.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

The website at the disputed domain name appears to make unauthorized use of the Complainant's trademark to suggest various statuses for use with the Complainant's application, but also features a range of advertising. As a result, it appears to the Panel that it is most likely ultimately being used for commercial purposes and that the Respondent earns click-through revenue from it, which in these circumstances does not confer rights or legitimate interests in the disputed domain name (see, e.g., *WhatsApp LLC. v. Love*

Status, WIPO Case No. [D2022-0179](#)).

The Panel finds that the available evidence confirms the Respondent is not commonly known by the disputed domain name, which could demonstrate rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The disputed domain name incorporates the WHATSAPP trademark of the Complainant in its entirety, as its distinctive element. Since WHATSAPP is a well-known trademark, and the disputed domain name is associated with the website offering statuses with the Complainant's WHATSAPP application, the Panel finds that the Respondent must have been aware of the Complainant's trademark when it registered the disputed domain name, and that it chose to target the Complainant's trademark because of the likelihood that it will attract traffic to the Respondent's website. In the Panel's view, such conduct cannot be regarded as giving rise to rights or legitimate interests on the part of the Respondent to register and use the disputed domain name (see, e.g., *LEGO Juris A/S v. Andrei Novakovich*, WIPO Case No. [D2016-1513](#)).

Noting the risk of implied affiliation between the confusingly similar disputed domain name and the well-known trademark of the Complainant, the Panel finds that there is no plausible fair use to which the disputed domain name could be put that would not have the effect of being somehow connected to the Complainant (see, e.g., *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Zayed*, WIPO Case No. [D2019-2897](#)).

The informal communications were sent without supporting evidence, and in any event do not effectively counter the above analysis or provide the Respondent with rights or legitimate interests in the disputed domain name, noting *inter alia* the misleading commercial use of the Complainant's trademark without authorization.

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to section 3.2.2 of the [WIPO Overview 3.0](#) noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen Top-Level Domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. The Panel finds that the use of the disputed domain name for offering statuses for the Complainant's WHATSAPP application confirms the Respondent knew and targeted the Complainant and its trademark when registering the disputed domain name, which is bad faith.

According to section 3.1.4 of the [WIPO Overview 3.0](#) the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark both in the United States and internationally. Thus, the Panel finds that a presumption of bad faith is appropriate here.

Moreover, according to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or

of a product or service on your website or location. In this case, the disputed domain name was resolving to a website featuring the Complainant's trademark and logo and offering various statuses for use with the Complainant's application, also containing a range of advertising most likely allowing the Respondent to earn click-through revenue from it. The Panel finds that in such a way the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website and service on the website.

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) 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 <whatsappstatus.live> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: June 16, 2022