

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Hussnain Seo, Seo
Case No. D2024-1897

1. The Parties

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

The Respondent is Hussnain Seo, Seo, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <gbwhatsapk.xyz> (the “Domain Name”) is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 6, 2024. On May 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 10, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 May 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2024. The Respondent sent email communications to the Center on May 8, 9, 10, and 13, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on June 10, 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 is a California-based company, founded in 2009 and acquired by Meta Platforms, Inc. (formerly Facebook, Inc.) in 2014. The Complainant provides, under the trade mark WhatsApp (“WHATSAPP Mark”) one of the world’s most popular mobile messaging applications. The Complainant’s WhatsApp app is available on iPhone, Blackberry and Android products and as of 2023 had over 2 billion monthly users worldwide. The WhatsApp app is the third most downloaded mobile application in Pakistan and fifth worldwide.

The Complainant holds a registered trade mark in various jurisdictions for the WHATSAPP Mark including in the United States (registration No. 3939463) for services in Class 42, registered on April 5, 2011, with a first use in commerce of February 24, 2009. The Complainant is also the owner of European Union trade mark registration No. 017923676 for WHATS (“WHATS Mark”) in Classes 9, 35, and 42, registered on March 8, 2019.

The Domain Name was registered on May 7, 2024. It is presently inactive, however prior to the commencement of the proceeding resolved to a website (“Respondent’s Website”) where the Respondent promoted an unauthorized and modified Android Package Kit (“APK”) version of the Complainant’s WhatsApp app.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) that the Domain Name is identical or confusingly similar to the Complainant’s WHATSAPP Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is subsequently being used in bad faith.

The Complainant is the owner of WHATSAPP and WHATS marks, having registered such mark in numerous jurisdictions around the world. The Domain Name is confusingly similar to the WHATSAPP Mark and the WHATS mark as the Domain Name compromises dominant elements of the WHATSAPP and WHATS marks. The Domain Name reproduces the WHATS mark in its entirety and adds the “gb” element and the acronym “apk” and the “.xyz” generic Top-Level Domain (“gTLD”).

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Respondent is not commonly known by the Domain Name, has no licence or right to use the Domain Name and has never been granted any permission by the Complainant for the registration of the Domain Name. The use of a domain name corresponding to the Complainant’s trade marks for a website promoting an unauthorised modification to the Complainant’s app that also breaches the Complainant’s terms of service is not bona fide, fair use or an otherwise legitimate noncommercial purpose.

The Domain Name was registered and is being used in bad faith. The Domain Name was registered with awareness of the Complainant’s trade marks and is being used in a manner that will mislead users into thinking that the APK offered on the Respondent’s Website is authorised or endorsed by the Complainant which is not the case.

B. Respondent

The Respondent made 5 informal communications during the course of this proceeding to the effect that the Respondent did not want the Domain Name, was not using the Domain Name and was open to transferring the Domain Name to the Complainant. The Respondent’s communication of May 13, 2024, consisted of the statements:

"i not want case
i not domain and I am not using this domain
please transfer this domain to Complainant"

On June 10, 2024, the Respondent sent its final communication, reiterating "I not need domain please transfer this domain to complainant".

The Panel considers that the Respondent has, without conditions, consented to the transfer of the Domain Name to the Complainant.

6. Discussion and Findings

In accordance with paragraph 4(a) of the UDRP, the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

The Panel is satisfied that the Respondent, by its emails between May 8 and May 13, 2024, and in particular its email of May 13, 2024, has provided a genuine, unconditional and unilateral consent to the transfer of the Domain Name to the Complainant. The Panel finds that this forms a sufficient basis for an immediate order to transfer the Domain Name to the Complainant; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") section 4.10.

In addition, the Panel notes that there is no doubt that the Complainant owns valid and existing trademark rights in the WHATSAPP mark, that the Domain Name is confusingly similar as this mark is clearly recognizable in the Domain Name, that the Respondent has no rights or legitimate interests in the Domain Name by virtue of the use to which it has been put, and that the Domain Name, being confusingly similar to the WHATSAPP mark, was registered and used in bad faith. Accordingly, on the basis of the above, the Panel will order such a transfer to the Complainant.

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 Domain Name <gbwhatsapk.xyz> be transferred to the Complainant.

/Nicholas Smith/
Nicholas Smith
Sole Panelist
Date: June 20, 2024