

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. AHMED MOHAMMED AHMED ALSARMANI
Case No. D2024-5090

1. The Parties

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

The Respondent is AHMED MOHAMMED AHMED ALSARMANI, Yemen.

2. The Domain Name and Registrar

The disputed domain name <whatsappog.download> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 10, 2024. On December 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 11, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 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 December 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 December 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2025.

The Center appointed Ian Blackshaw as the sole panelist in this matter on January 17, 2025. 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, founded in 2009, is a provider of one of the world's most popular mobile messaging applications (or "apps") and allows users across the globe to exchange messages for free via smartphones, including iPhone and Android.

Its main website, available at "www.whatsapp.com", also allows Internet users to access its messaging platform.

Since its launch, the Complainant has become one of the fastest growing and most popular mobile applications in the world, with well over 2.6 billion monthly active users worldwide in January 2023 and has acquired considerable reputation and goodwill worldwide.

Information on the Complainant, including its company information, the Complainant's Wikipedia entry, press articles on Meta's acquisition of WhatsApp in 2014, WhatsApp's rankings, and its rapid growth and international popularity, has been provided to the Panel.

Reflecting its global reach, the Complainant is the owner of numerous domain names comprising its WHATSAPP trademark, under various generic Top-Level Domains ("gTLDs") as well as under many country code Top-Level Domains ("ccTLDs").

The Complainant has also made substantial investments to develop a strong presence online by being active on various social-media forums. For instance, WhatsApp's official page on Facebook has over 35 million "likes". In addition, WhatsApp has 5.5 million followers on X (formerly Twitter). Again, evidence has been provided to the Panel.

In addition to its strong presence online, the Complainant has secured ownership of trademark registrations for WHATSAPP in many jurisdictions throughout the world, including the following:

- United States Registration No. 3939463, WHATSAPP, registered on April 5, 2011;
- European Union Trade Mark No. 009986514, WHATSAPP, registered on October 25, 2011; and
- International Registration No. 1085539, WHATSAPP, registered on May 24, 2011.

The Complainant also holds figurative trademark registrations for its telephone logo, including:

- International Registration No. 1109890, registered on January 10, 2012.

Copies of these trademark registrations have also been provided to the Panel.

On becoming aware of the disputed domain name, on October 24, 2024, the Complainant's lawyers sent a cease-and-desist letter to the Respondent via the contact email address listed on the Respondent's website, but no response was received. A copy of this letter has been provided to the Panel.

The disputed domain name was registered on January 19, 2023.

The disputed domain name resolves to a website at "https://www.whatsappog.download/" that purports to offer for download an unauthorized modified APK version of the WhatsApp app.

The Respondent's website is titled "OGWhatsApp" and features the following wording:

"OGWhatsApp ● is a social networking application like other applications such as Telegram, Imo and Facebook. [...] WhatsApp OG is a modded version that allows you to access and control WhatsApp. The WhatsApp OG version is one of the best and popular versions similar to the GBWhatsApp download version to some extent, as each version has its own features, features, and a user interface that is different from the other."

The Respondent's website features a green-themed color scheme that is similar to WhatsApp's color scheme, as well as an icon that is very similar to the Complainant's WhatsApp logo and figurative trademark.

The Respondent's website features no disclaimer as to its lack of relationship with the Complainant.

Screen captures of the Respondent's website have been provided to the Panel.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant makes the following contentions:

The disputed domain name incorporates the Complainant's WHATSAPP trademark, followed by the letters "og", under the gTLD ".download".

The Complainant submits that the presence of its WHATSAPP trademark in the disputed domain name is sufficient to establish confusing similarity between the disputed domain name and the Complainant's trademark; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

As further stated in [WIPO Overview 3.0](#), section 1.8:

"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 Complainant contends that the addition of the letters "og" does not prevent a finding of confusing similarity with the Complainant's WHATSAPP trademark, which remains clearly recognizable as the leading element of the disputed domain name. See *Facebook Inc., Instagram, LLC, WhatsApp Inc., Facebook Technologies, LLC v. Perfect Privacy, LLC / Milen Radumilo, Hush Whois Protection Ltd., Contact Privacy Inc., Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2019-0510](#) (<ogwhatsapp.com> et al.); *WhatsApp LLC v. vincent lai, yh tec*, WIPO Case No. [D2024-2974](#) (<gbwhatsapp.dev>); and *WhatsApp LLC v. Aamir Altaf, G11*, WIPO Case No. [D2024-2579](#) (<gbwhatsapp.icu>).

The gTLD, in this case ".download", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement; see [WIPO Overview 3.0](#), section 1.11.1.

For the above reasons, the Complainant submits that the disputed domain name is confusingly similar to the Complainant's trademark in accordance with paragraph 4(a)(i) of the Policy.

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

As noted in [WIPO Overview 3.0](#), section 2.1:

“While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Complainant contends that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy, in order to demonstrate rights or legitimate interests in the disputed domain name for the following reasons:

The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services.

The Respondent is not a licensee of the Complainant. The Respondent is not affiliated with the Complainant in any way, nor has the Complainant authorized the Respondent to make any use of its WHATSAPP trademark, in a domain name or otherwise.

Furthermore, the WhatsApp Brand Assets and Guidelines prohibit the registration of domain names that comprise any WHATSAPP trademark and could be confused with the Complainant.

The Complainant contends that Respondent's use of the disputed domain name, to purport to offer an unauthorized version of the Complainant's WhatsApp app, developed by a third-party, also violates the WhatsApp Terms of Service, a copy of which has been provided to the Panel.

The Respondent is not commonly known by the disputed domain name.

The Respondent cannot legitimately claim to be commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The disputed domain name was registered using a proxy service. The Respondent's website displays the email address [...]@outlook.com. There is no other contact information on the Respondent's website. The Respondent's identity has been disclosed as “Ahmed Mohammed Ahmed Alsarmani” whose name bears no resemblance to the disputed domain name.

To the best of the Complainant's knowledge, there is no evidence that the Respondent has obtained or applied for any trademark registration or similar right for “WHATSAPP” or “WHATSAPPOG”, as reflected in the disputed domain name.

The Respondent's use of the disputed domain name to purport to offer for download an unauthorized modified APK version of the WhatsApp application does not support any reasonable claim of being commonly known by the disputed domain name, nor does it give rise to any reputation in the disputed domain name itself, independent of the Complainant's trademark rights.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Nor is the Respondent currently making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers within the meaning of paragraph 4(c)(iii) of the Policy.

The Respondent's use of the disputed domain name to purport to offer for download unauthorized modified versions of the Complainant's WhatsApp application does not amount to legitimate noncommercial or fair use; see *WhatsApp LLC v. Furqan Taunsvi, Buch Executive Villas*, WIPO Case No. [DCC2024-0012](#).

The Complainant, therefore, contends that it has established a prima facie case showing that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the burden of production shifts to the Respondent to come forward with evidence to rebut the Complainant's case. In the absence of such evidence, the Complainant may be deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy; see [WIPO Overview 3.0](#), section 2.1.

The disputed domain name was registered and is being used in bad faith.

Given the Complainant's renown and goodwill worldwide and its trademark rights in various jurisdictions in the world, the Respondent could not credibly argue that it did not have knowledge of the Complainant's WHATSAPP trademark when it registered the disputed domain name; see *WhatsApp Inc. v. Vipul Singh*, WIPO Case No. [D2020-0903](#).

In the circumstances of the present case, the Complainant contends that the Respondent's registration of the disputed domain name using a proxy service to mask its identity, coupled with the provision of what appears to be false or incomplete underlying registrant information, constitutes further evidence of bad faith; see [WIPO Overview 3.0](#), section 3.6.

The Complainant contends that the Respondent registered the disputed domain name, not only with full knowledge of the Complainant's rights, but also, with the intent to attract Internet users to the Respondent's website for the promotion of an unauthorized modified version of the Complainant's application, in bad faith.

Noting the confusing similarity between the disputed domain name and the Complainant's trademark, together with the content of the Respondent's website, which features prominent references to the Complainant and a variation of its WhatsApp logo, Internet users are likely to be misled into believing that the Respondent's website is somehow affiliated with or otherwise endorsed by the Complainant, which is not the case. Prior UDRP Panels have found that the use of a domain name to mislead Internet users constitutes evidence of bad faith; see *WhatsApp Inc. v. Edwin Lizcano, Inversiones Capira SAS*, WIPO Case No. [D2019-1700](#).

The Complainant further contends that the Respondent has used the disputed domain name to intentionally attempt to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the website and the services offered therein, in bad faith; see *WhatsApp, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Mohammed Alkalbani, et al.*, WIPO Case No. [D2016-2299](#).

Furthermore, the Complainant contends that the promotion of unauthorized modified APK versions of the WhatsApp application not only violates the WhatsApp Terms of Service as detailed above but also places the security of WhatsApp users at risk. The Respondent's use of the disputed domain name to offer the OGWhatsApp APK under the Complainant's trademark disrupts the Complainant's business by driving WhatsApp users to third-party applications. Prior UDRP panels have held that such activities amount to use of a domain name in bad faith; see *WhatsApp, LLC v. Adila Ayaz, Freelance*, WIPO Case No. [D2024-2999](#).

Also, there is no clearly-worded disclaimer on the Respondent's website as to the Respondent's lack of relationship with the Complainant, although even if such a disclaimer were featured on the Respondent's website, it would not have been sufficient to cure the Respondent's illegitimate use of the disputed domain name; see *Instagram, LLC v. Protection of Private Person / Yurii Shemetilo / Olha Shostak*, WIPO Case No. [D2022-2832](#).

Finally, the Complainant contends that the Respondent's failure to respond to the pre-Complaint cease-and-desist letter is further evidence of its bad faith; see *SGII, Inc. v. New Ventures Services, Corp.*, WIPO Case No. [D2019-2748](#).

The Complainant, therefore, contends that the disputed domain name was registered and is being used in bad faith, in accordance with paragraph 4(a)(iii) of the Policy.

B. Respondent

The Respondent, having been duly notified of the Complaint and of these proceedings, did not reply to the Complainant's contentions or take any part in these proceedings.

6. Discussion and Findings

To qualify for cancellation or transfer of the disputed domain name, the Complainant must prove each of the following elements of paragraph 4(a) of the Policy, namely:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

In accordance with paragraph 15(a) of the Rules, the Panel shall decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

In accordance with paragraph 14(a) of the Rules, in the event that a party, in the absence of exceptional circumstances, does not comply with any of the time periods established by the Rules or the Panel, the Panel shall proceed to a decision on the Complaint; and under paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences as it considers appropriate. In accordance with paragraph 10(d) of the Rules, the Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

In previous UDRP decisions in which the respondents failed to file a response, the panels' decisions were based upon the complainants' reasonable assertions and evidence, as well as inferences drawn from the respondents' failure to reply. See *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#); and also *Köstritzer Schwarzbierbrauerei v. Macros-Telekom Corp.*, WIPO Case No. [D2001-0936](#).

Nevertheless, the Panel must not decide in the Complainant's favor solely based on the Respondent's default. See *Cortefiel, S.A. v. Miguel García Quintas*, WIPO Case No. [D2000-0140](#).

In the present case, the Panel must decide whether the Complainant has introduced elements of proof, which allow the Panel to conclude that its allegations are true.

A. Identical or Confusingly Similar

It is well established in previous UDRP decisions that, where the disputed domain name incorporates a complainant's registered trademark, this may be sufficient to establish that the disputed domain name is identical or confusingly similar for the purposes of the Policy. See *Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#).

In the present case, the disputed domain name almost incorporates the Complainant's well-known and widely used registered trademark WHATSAPP and this makes the disputed domain name confusingly similar to the Complainant's well-known and widely used WHATSAPP registered trademark.

The addition of the letters "og" in the disputed domain name does not prevent a finding of confusing similarity. See *Gannett Co., Inc. v. Henry Chan*, WIPO Case No. [D2004-0117](#).

Furthermore, the addition of the gTLD ".download" is irrelevant in determining whether the disputed domain name is confusingly similar to the Complainant's well-known and widely used WHATSAPP registered trademark; this being a standard registration requirement of domain names. See *Blue Sky Software Corp. v. Digital Sierra Inc. and Abdullah Khan*, WIPO Case No. [D2000-0165](#).

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's well-known and widely used WHATSAPP registered trademark, in which the Complainant has demonstrated, to the satisfaction of the Panel, prior rights in and prior commercial use.

The first element of the Policy, therefore, has been met.

B. Rights or Legitimate Interests

In order to determine whether the Respondent has any rights or legitimate interests in respect of the disputed domain name (paragraph 4(c) of the Policy), attention must be paid to any of the following circumstances, in particular, but without limitation:

- whether there is any evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services before any notice to the Respondent of the dispute;
- whether the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights;
- whether the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence before the Panel to show that the Respondent was acting in pursuance of any rights or legitimate interests with respect to the disputed domain name. On the contrary, if the Respondent had any such rights or legitimate interests, the Respondent would reasonably have been expected to assert them, which the Respondent clearly has not done so, by not replying to the Complaint or taking any part in these proceedings. See *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

There is also no evidence before the Panel that the Respondent has been authorized or licensed by the Complainant to use the Complainant's well-known and widely used WHATSAPP registered trademark. In fact, in the view of the Panel, the adoption by the Respondent of a domain name confusingly similar to the Complainant's well-known and widely used WHATSAPP registered trademark, which the Panel also considers would appear not to be by mere chance but by design, inevitably leads to confusion on the part of Internet users and consumers seeking information about the Complainant and its technological products. Further, the Panel finds that the Respondent is consequentially trading unfairly on the Complainant's well-known and widely used WHATSAPP registered trademark and also the valuable goodwill that the Complainant has established in that trademark through the Complainant's prior commercial use, without any rights or justification for doing so.

Also, the Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with any bona fide offering of goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant has put forward a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent. Therefore, for all the above reasons, the Panel concludes that the Respondent has neither rights nor legitimate interests in the disputed domain name.

The second element of the Policy, therefore, has been met.

C. Registered and Used in Bad Faith

Regarding the bad faith requirement, paragraph 4(b) of the Policy lists four examples of acts, which constitute prima facie evidence of bad faith. However, this list is not exhaustive, but merely illustrative. See *Nova Banka v. Iris*, WIPO Case No. [D2003-0366](#).

Paragraph 4(b)(iv) of the Policy is particularly relevant to the present case and provides that there is evidence of bad faith in the following circumstances:

“(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [its] 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 [the respondent’s] website or location or of a product or service on [its] website or location.”

Based on the evidence provided on the record, the Panel considers that the Respondent, by registering the disputed domain name confusingly similar to the Complainant’s well-known and widely used WHATSAPP registered trademark, is trading unfairly on the Complainant’s valuable goodwill established in such trademark.

Also, the effect of such conduct on the part of the Respondent is to mislead Internet users and consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by, or affiliated with the Complainant and its business; or that the Respondent’s activities are approved or endorsed by the Complainant. None of which the Panel can find, on the basis of the evidence provided on the record, is, in fact, the situation. Such misleading consequences, in the view of the Panel, are indicative of bad faith on the part of the Respondent. See *Columbia Insurance Company v. Pampered Gourmet*, WIPO Case No. [D2004-0649](#).

Again, in the absence of any explanation to the contrary by the Respondent, of which none is forthcoming on the record, the Panel agrees with the Complainant’s contention that the Respondent did not register and use the disputed domain name by chance; but, as noted above, the Respondent appears to have been fully aware of the notoriety of the Complainant and its business activity, as well as its well-known and widely used WHATSAPP registered trademark and its prior commercial use.

Also, in the circumstances of this case, the failure of the Respondent to answer and comply with the Complainant’s cease-and-desist letter, as mentioned above, is also evidence of bad faith on the part of the Respondent. See *America Online, Inc. v. Antonio R. Diaz*, WIPO Case No. [D2000-1460](#) and the cases cited therein.

Also, the registration, in the present case, by the Respondent of the disputed domain name using a proxy service is also, in the view of the Panel, an indication of bad faith on the part of the Respondent.

Finally, the failure of the Respondent to answer the Complaint or take any part in the present proceedings, in the view of the Panel, is another indication of bad faith on the part of the Respondent in the circumstances of this case. See *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Therefore, taking all these particular facts and circumstances into account, and for all the above-mentioned reasons, as well as the arguments advanced by the Complainant in its above contentions, and also based on the previous UDRP decisions cited above, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

The third element of the Policy, therefore, has been met.

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 <whatsappog.download> be transferred to the Complainant.

/Ian Blackshaw/

Ian Blackshaw

Sole Panelist

Date: January 23, 2025