

## **ADMINISTRATIVE PANEL DECISION**

WhatsApp LLC v. Furqan Taunsvi, Buch Executive Villas  
Case No. DCC2024-0012

### **1. The Parties**

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

The Respondent is Furqan Taunsvi, Buch Executive Villas, Pakistan.

### **2. The Domain Names and Registrar**

The disputed domain names <gbwhatsapp.cc>, <gbwhatsapppro.cc>, <gbwhatsapps.cc>, and <gbwhatsapps.pro> are registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same day, 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 (PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 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 April 23, 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 April 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on May 23, 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 provider of one of the world's most popular mobile messaging applications, "WhatsApp". With over two billion monthly active users worldwide in 2023, WhatsApp has garnered significant reputation and is consistently ranked among the top 25 most popular free mobile applications on Google Play and Apple iTunes. Additionally, according to Data.ai (formerly App Annie), WhatsApp is the first most downloaded application for iOS phones worldwide.

The Complainant has provided evidence that it is the registered owner of numerous WHATSAPP trademarks, including, but not limited to the following:

- United States Trademark Registration No. 3939463, registered on April 5, 2011, for a word mark WHATSAPP, in class 42;
- International Trademark Registration No. 1085539, registered on May 24, 2011, for a word mark WHATSAPP, in classes 9, and 38; and
- European Union Trademark Registration No. 009986514, registered on October 25, 2011, for a word mark WHATSAPP, in classes 9, 38, and 42.

The Complainant's main website "www.whatsapp.com" also allows Internet users to access its messaging platform.

Additionally, the Complainant owns numerous generic Top-Level Domains ("gTLDs") and country code Top-Level Domains ("ccTLDs") domain names comprising its WHATSAPP trademark, such as the domain names <whatsapp.com>, registered on September 4, 2008, and <whatsapp.co>, registered on September 24, 2010; thereby enhancing brand visibility.

The Complainant's trademarks and domain name were registered prior to the disputed domain names. Specifically, the disputed domain names <gbwhatsapp.cc>, <gbwhatsapps.cc>, and <gbwhatsapps.pro> were registered on November 8, 2022, and the domain name <gbwhatsapp.cc> was registered on November 10, 2022.

According to the evidence provided by the Complainant, the disputed domain names previously redirected to a website at "www.gbwhatsapp.org.pk", which promoted and offered a modified APK version of the Complainant's application called "GB WhatsApp". The Respondent's website prominently displayed the Complainant's WHATSAPP trademark and logo and adopted a similar green-and-white color scheme. The Complainant's figurative trademark was also used as a favicon in the address bar. Additionally, the Respondent's website featured multiple advertisement banners.

The Respondent is reportedly located in Pakistan.

#### **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 asserts that the WHATSAPP trademark is well known.

According to the Complainant, the disputed domain names are confusingly similar to the Complainant's WHATSAPP trademark as it incorporates the entire trademark. The addition of the letters "gb", "s", "ro", and "p" to the WHATSAPP trademark does not prevent the confusing similarity between the disputed domain names and the Complainant's trademark. With regards to the gTLD, ".pro" and ".cc" in this case, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names for the following reasons: (1) the Respondent is not authorized by the Complainant to make any use of its WHATSAPP trademark, in a domain name or otherwise; (2) the Respondent is not commonly known by the disputed domain names; (3) the Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services, nor making legitimate noncommercial or fair use of the disputed domain names, but solely to offer unauthorized modified versions of the WhatsApp application, capitalizing on the WHATSAPP trademark. Additionally, the Respondent failed to disclose the lack of relationship with the Complainant; and (4) the Respondent's website created confusion by suggesting an affiliation with the Complainant. It prominently displayed the Complainant's trademarks and color scheme, misleading users into believing it was authorized by the Complainant.

Finally, the Complainant argues that the Respondent has registered and is using the disputed domain names in bad faith since: (1) the Complainant's trademark significantly predates the registration of the disputed domain names and the Complainant's WHATSAPP trademark is well known, indicating that the Respondent knew about the Complainant's trademark; (2) the Complainant's WHATSAPP trademark was displayed on the websites linked to the disputed domain names, providing clear evidence that the Respondent, by registering the disputed domain names, was actually aware of, and intended to target, the Complainant and its trademark WHATSAPP; (3) by registering four disputed domain names each specifically targeting the Complainant's trademark, the Respondent demonstrates a pattern of abusive domain name registration, highlighting its bad faith; (4) the Respondent registered the disputed domain names with the intent to create confusion among Internet users, suggesting an association with or endorsement by the Complainant to attract users to its websites promoting an unauthorized version of the Complainant's application. This confusion is exacerbated by the absence of a clear disclaimer on the website; and (5) the presence of commercial banners on the Respondent's website indicates it gains financial benefits from the disputed domain names, further supporting the argument of bad faith use.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

### **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 Panel finds the mark 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 the letters "gb", "s", "ro", and "p" 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds 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.

The Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the WHATSAPP trademark or to seek registration of any domain name incorporating the trademark. The Respondent is also not known to be associated with the WHATSAPP trademark, and there is no evidence showing that the Respondent has been commonly known by the disputed domain names. [WIPO Overview 3.0](#), section 2.3.

Based on the available record, the Panel finds that the Respondent is obviously not making a legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. [WIPO Overview 3.0](#), section 2.4.

Indeed, all disputed domain names have been used to redirect to an identical website offering for download an unauthorized modified version of the Complainant's application. This use does not fall under a bona fide offering of goods and services by resellers or service providers, which could have established a legitimate interest, as determined by the conditions in *Oki Data Test*. *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Specifically, at least two criteria are not met: (1) it does not involve the offering of the goods or services at issue, but rather unauthorized third-party stand-alone software, and (2) the site does not

accurately and prominently disclose the Respondent's relationship with the trademark holder. Consequently, this use does not represent a bona fide offering because it capitalizes on the reputation and goodwill of the Complainant's trademark and seeks commercial gain. [WIPO Overview 3.0](#), section 2.8.1.

Furthermore, the composition of the disputed domain names, the content of the website to which they redirect, displaying the Complainant's trademark, logo, and color scheme, combine to create a risk of implied affiliation with the Complainant and/or endorsement by the trademark owner, which cannot be considered fair use. [WIPO Overview 3.0](#), section 2.5.1.

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.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain names and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

The Panel finds 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 the Complainant's well-known WHATSAPP trademark substantially predates the Respondent's registration of the disputed domain names. Therefore, the Respondent knew or should have known of the Complainant's trademark at the time of registering the disputed domain names. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain names that are confusingly similar to the Complainant's widely known trademark by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent's awareness of the Complainant and its trademark can be easily inferred from the use of the disputed domain names. By employing the disputed domain names to attract users to its website featuring the Complainant's WHATSAPP trademark and logo, promoting an unauthorized version of the Complainant's application, it is evident that the Respondent was aware of the business activities associated with the Complainant's WHATSAPP trademark. Panels have held that the use of a domain name for illegal activity, here, fraudulent employment scheme, and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Therefore, in the Panel's view, 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 trademark as to the source, sponsorship, affiliation, or endorsement of its websites or of the products on its websites. Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of registration and use of a domain names in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 <gbwhatsapp.cc>, <gbwhatsappro.cc>, <gbwhatsapps.cc>, and <gbwhatsapps.pro> be transferred to the Complainant.

*/Alissia Shchichka/*

**Alissia Shchichka**

Sole Panelist

Date: June 6, 2024