

## **ADMINISTRATIVE PANEL DECISION**

WhatsApp LLC v. Sahaji, Blogging Mafia  
Case No. DCC2024-0032

### **1. The Parties**

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

The Respondent is Sahaji, Blogging Mafia, India.

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

The disputed domain name <gbwhatsapp.cc> is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2024. On October 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 5, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Respondent in correspondence with the Center on November 6, 2024, said he was ready to shut down the relevant website/domain forever. Pursuant to the Rules, paragraph 17, a UDRP proceeding may be suspended to implement a settlement agreement between the Parties in these circumstances. However, the Complainant indicated that it did not wish to explore settlement with the Respondent and requested that the Center proceed with formal notification of the Complaint, which subsequently occurred. The Complainant filed an amended Complaint on November 6, 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent did not submit a formal response. Accordingly, the Center notified the Parties of the commencement of the Panel appointment process on November 29, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on December 3, 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, WhatsApp LLC, is a provider of a mobile messaging application. It was founded in 2009 and acquired by Meta Platforms, Inc. in 2014. The Complainant owns trademark registrations for WHATSAPP in many jurisdictions including United States Registration No. 3939463 for WHATSAPP, registered on April 5, 2011; European Union Trade Mark No. 009986514 for WHATSAPP, registered on October 25, 2011; and International Registration No. 1085539 for WHATSAPP, registered on May 24, 2011.

The Complainant's main website is at "www.whatsapp.com" and it is the owner of many other domain names, comprising its WHATSAPP trademark, under various generic Top-Level Domains, as well as under country code Top-Level Domains.

The disputed domain name was registered on November 25, 2018, and resolves to a website at "www.gbwhatsapp.cc" that purports to offer for download an unauthorized modified version of the WhatsApp application.

#### **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.

The Complainant asserts that it owns numerous trademark registrations for WHATSAPP in various jurisdictions and has therefore established trademark rights in WHATSAPP for the purposes of paragraph 4(a)(i) of the Policy. The Complainant submits that the presence of WHATSAPP in the disputed domain name is sufficient to establish confusing similarity with the Complainant's trademark, referring to [WIPO Overview 3.0](#), section 1.7. The Complainant submits that the addition of the letters "gb" does not prevent a finding of confusing similarity with the Complainant's WHATSAPP trademark, which remains clearly recognizable in the disputed domain name.

The Respondent is not a licensee of the Complainant, and is not affiliated with it in any way, nor has the Complainant authorized the Respondent to make any use of its WHATSAPP trademark, in a domain name or otherwise. The Complainant also points out that the Respondent's registration of the disputed domain name violates the WhatsApp Brand Assets and Guidelines which prohibit the registration of domain names that comprise any WHATSAPP trademark and could be confused with WhatsApp.

The Complainant further submits that the Respondent cannot be viewed as a bona fide service provider, as it does not provide sales or repairs in relation to a product provided by the Complainant, but instead purports to offer for download an unauthorized version of the Complainant's WhatsApp application using the Complainant's WHATSAPP trademark. The Complainant says that even if the *Oki Data* criteria were applied, the Respondent fails to fulfil the first and third criteria. Furthermore, the Complainant points to the

fact that the Respondent's website features the Complainant's WHATSAPP trademark and a logo that is very similar to the Complainant's WhatsApp logo and figurative trademark, to promote the downloading of a third-party modified version of the Complainant's WhatsApp application. The Complainant contends that prior UDRP panels have found that the use of modified versions of the WhatsApp telephone logo contributes to a risk of false association with the Complainant and confusion and cannot constitute bona fide use. They have also held that use of the disputed domain name to offer modified unauthorized versions of the Complainant's WhatsApp app, which the Respondent apparently does, does not give rise to any rights or legitimate interests in the concerned domain name.

The Complainant contends that 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 Respondent has no registrations for any trademark relevant to the disputed domain name and the contact email displayed on the impugned website gives a false impression of affiliation with the Complainant, the latter says. Further, 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.

The Complainant contends that given its renown and goodwill worldwide and its trademark rights in various jurisdictions, 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 in November 2018. Rather, the nature of the Respondent's website clearly demonstrates actual knowledge of the Complainant and its trademark, as it makes prominent reference to the Complainant, its WHATSAPP trademark and official application, and features a variation of the Complainant's WhatsApp logo and figurative trademark. The Complainant submits that in the circumstances of the present case, the Respondent's registration of the disputed domain name uses a proxy service to mask its identity which constitutes further evidence of bad faith, referring to [WIPO Overview 3.0](#), section 3.6. The Complainant further submits that the Respondent's registration of two other domain names comprising the Complainant's WHATSAPP trademark amounts to additional evidence of the Respondent's bad faith.

The Complainant contends that it is more likely than not that the owners of the "GBWhatsApp" offered for download the unauthorized modified version of the Complainant's application via the Respondent's website in order to derive commercial gains from the Respondent's unauthorized use of the Complainant's trademark. Furthermore, the promotion of unauthorized modified versions of the WhatsApp application not only violates the WhatsApp Terms of Service, but also places the security of WhatsApp users at risk, the Complainant asserts. The Respondent's use of the disputed domain name to offer the unauthorized modified versions under the Complainant's trademark disrupts the Complainant's business by driving WhatsApp users to third-party applications.

The Complainant finally submits that the Respondent's failure to respond to its pre-Complaint notice is further evidence of its bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 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 “gb”, may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 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.

Panels have held that the use of a domain name for the offering of modified versions of the WhatsApp application cannot constitute bona fide use where there is a risk of false association or confusion with the Complainant. Here, the use of the confusingly similar disputed domain name to resolve to a website bearing the Complainant’s logo and falsely suggesting an affiliation with the Complainant without any disclaimer of the lack of relationship with the Complainant, and offering modified unauthorized versions of the Complainant’s WhatsApp app, does not give rise to any rights or legitimate interests in the disputed domain name.

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 Respondent registered the disputed domain name at a time when the Complainant’s distinctive WHATSAPP trademark already had a well-established and widespread reputation with the general Internet-using public in many jurisdictions. A simple Internet search prior to registration would in any case have revealed the proprietary trademarks of the Complainant. The composition of the disputed domain name further suggests bad faith registration, and the Respondent also appropriates various aspects of the Complainant’s intellectual property to offer an unauthorized third-party version of its WhatsApp application. The Respondent clearly relies on Internet users being deceived into

thinking the disputed domain name and connected website are in fact affiliated or authorized by the Complainant, which they are not. There is also evidence before the Panel that the Respondent has engaged in a pattern of bad faith conduct of a similar kind, i.e. offering unauthorized third-party applications by way of registering domain names that incorporate the WHATSAPP trademark without any authorization.

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 <gbwhatsapp.cc> be transferred to the Complainant.

*/William A. Van Caenegem/*

**William A. Van Caenegem**

Sole Panelist

Date: December 10, 2024