

ADMINISTRATIVE PANEL DECISION

WhatsApp, LLC v. Muhammad Fahim
Case No. D2024-4513

1. The Parties

The Complainant is WhatsApp, LLC, United States of America ("United States"), represented by Greenberg Traurig, LLP, United States.

The Respondent is Muhammad Fahim, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <pinkwhatsapp.net> and <pinkwhatsapp.org> are registered with Porkbun LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 1, 2024. On November 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 5, 2024, 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 (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 6, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Respondent sent two email communications to the Center on November 10, 2024. The Complainant filed an amendment to the Complaint on November 11, 2024.

The Center verified that the Complaint together with the amendment to 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 November 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 2, 2024. The Respondent did not submit a formal

response. Accordingly, the Center notified the commencement of the Panel appointment process on December 3, 2024.


The Center appointed Benjamin Fontaine as the sole panelist in this matter on December 11, 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 WhatsApp LLC, a global leader in messaging services for mobile devices. WhatsApp application was founded in 2009 and acquired by Meta Platforms Inc. in 2014. It allows users across the globe to exchange messages for free via all types of smartphones. The messaging services are available in sixty different languages and currently used by two billion people in over 180 countries (Meta's Quarterly report from Q1 2024).

The Complainant submitted a portfolio of trademarks to demonstrate that WHATSPAPP is registered worldwide. In the circumstances of this case, we refer to:

- United States registration number 3939463, registered on April 5, 2011;
- European Union trademark number 009986514, registered on October 25, 2011;
- International trademark registration number 1396913, registered on December 21, 2017.

The Complainant is also the owner of registered trademarks in respect of its telephone handset logo  including international trademark registration number 1109890 registered on January 10, 2012.

The Complainant's main website is available at "www.whatsapp.com" and allows Internet users to access the messaging platform. In addition to its main domain name <whatsapp.com>, the Complainant owns and operates numerous other domain names consisting in the trademark WHATSAPP in combination with various generic and country code Top-Level Domain extensions.

Previous UDRP panels have repeatedly recognized the distinctiveness and renown of the Complainant's trademark. See for example *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. [D2015-0909](#); *WhatsApp, Inc. v. Domain Manager, SHOUT marketing SL, and Gonzalo Gomez Rufino, River Plate Argentina, and Gonzalo Gomez Rufino, SHOUT Marketing SL*, WIPO Case No. [D2018-1581](#); and *WhatsApp Inc. v. Alan Frei*, WIPO Case No. [D2020-1488](#).

The two disputed domain names were registered at the beginning of 2024, with the same registrar Porkbun LLC, within roughly one month:

- <pinkwhatsapp.net> was registered on February 15, 2024, and
- <pinkwhatsapp.org> was registered on March 22, 2024.

The two disputed domain names currently link to two different web pages, in different shades of pink, reproducing the Complainant's trademark WHATSAPP and its logo in a pink version. They showcase an "advanced", differently colored and "modified version" of the Complainant's WhatsApp mobile application. This new version is referred to as "Pink WhatsApp".

The disputed domain name <pinkwhatsapp.net> offers to download the pink version of the application for free. This version is – according to the website – an enhanced/upgraded version of the application: "Are you tired of the boring standard WhatsApp experience? Consider upping your messaging game with Pink WhatsApp. It's a customizable platform that offers you a unique theme and a set of additional features. It should enhance your messaging experience on a smartphone".

The disputed domain name <pinkwhatsapp.org> hosts a website which displays a different content: an account dealing with the user experience offered by PinkWhatsapp: "Exploring Pink WhatsApp and its Distinctive Characteristics".

The Complainant sought to contact the Respondent directly and through the Registrar in May and June 2024 to request the suspension of the disputed domain names. It received no answer.

The Respondent is an individual domiciled 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 contends that the two disputed domain names are confusingly similar to its registered trademarks WHATSAPP. The disputed domain names, <pinkwhatsapp.org> and <pinkwhatsapp.net>, are composed of the Complainant's trademark WHATSAPP in full, preceded by the term "pink". WHATSAPP remains clearly recognizable within the disputed domain names, and this addition is not sufficient to dispel the ensuing confusing similarity between the Complainant's well-known and distinctive trademark WHATSAPP and the disputed domain names. The applicable generic Top-Level Domains ("gTLDs"), in this case ".org" and ".net", may be disregarded for the purposes of assessment under the first element, as they are viewed as a standard registration requirement.

Second, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names. There is no evidence to suggest that the Respondent is commonly known by the disputed domain names. To the best of the Complainant's knowledge, completed by a search in the Global Brand Database of WIPO, the Respondent has not acquired, nor applied for a trademark registration for "PINK WHATSAPP", nor any variation thereof as reflected in the disputed domain names. The Respondent is not a licensee of the Complainant, nor is it affiliated with the Complainant in any way. The Complainant has not authorized the Respondent to make any use of its trademarks WHATSAPP, in a domain name, in a mobile app, nor the use of its logos on the website, or otherwise. In fact, WhatsApp's Brand Guidelines explicitly prohibit the registration of domain names that could be confused with WHATSAPP.

The Complainant reviews the Oki Data criteria to prove that the Respondent's use of the disputed domain names does not suggest in any reasonable way that the Respondent is making a legitimate noncommercial or fair use linked to the Complainant:

- The Respondent is not providing legitimate sales or repairs in relation to a product provided by the Complainant;
- In its websites, the Respondent does not disclose any evidence of fair relationship with the Complainant. The Respondent does not mention the Complainant at any point, other than to refer to its own services as a "modified version" of "standard WhatsApp" or "regular WhatsApp";
- The Respondent registered two domain names that reflect the Complainant's trademark and expressly encourages and actively induces third-party users of the Complainant's services to violate the Complainants' Terms of Use.

Thus, the composition of the disputed domain names, coupled with the Respondent's websites specifically targeting the Complainant, entails a high risk of implied affiliation with the Complainant.

Third, the Complainant submits that the disputed domain names were registered and are being used in bad faith. As regards the registration, the Complainant's indicates that the trademark WHATSAPP is inherently distinctive and well-known throughout the world in connection with its messaging application. The

trademarks have been continuously and extensively used since the respective launching of the Complainant's services in 2009, and have acquired considerable reputation and goodwill worldwide. WhatsApp has no meaning independent of the Complainant's mobile application. All search results obtained by typing the term "whatsapp" into the Google search engine, refer to the Complainant. In light of these elements, the Respondent cannot credibly argue having no prior knowledge of the Complainant's trademarks at the time the disputed domain names were registered. Furthermore, in choosing disputed domain names that so closely resemble the Complainant's trademark WHATSAPP to promote an unauthorized, derivative, and ostensibly competing application, the Respondent is taking advantage of the Complainant's mark for commercial gain, which supports a finding of bad faith under the Policy.

As regards to their use, given the composition of the disputed domain names and noting the nature of the Respondent's websites, Internet users are likely to believe that the modified unauthorized "Pink WhatsApp" application promoted therein is affiliated with, or somehow endorsed by, the Complainant. Both websites reproduce the WHATSAPP word trademarks and the telephone handset logo, but display no disclaimer. On the contrary, they contain language likely intended to mislead users. Thereby, the Respondent has intentionally attempted to attract Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites and the goods and services marketed therein, in bad faith. In addition, the modified WhatsApp applications promoted via the disputed domain names may be used to harvest user data or to steal user account credentials, for phishing or for other unauthorized or illegal activities. Such use places the security of WhatsApp users at risk and violates the Complainant's policies. In addition, the Respondent's use of a proxy service strongly suggests an attempt to prevent or frustrate a UDRP proceeding and therefore constitutes additional evidence of bad faith at the time of registration of the disputed domain names. Finally, the Respondent never responded to the Complainant's attempts to contact him, nor did he respond substantively to this Complaint.

The Complainant requests the transfer of the two disputed domain names.

B. Respondent

The Respondent did not file a formal response to the Complaint. He simply sent two emails to the Center on November 10, 2024, after being informed of the existence of the Complaint. He inquired information about the case and "any recommended action to avoid suspension or ensure compliance with applicable policies". The Respondent, however, did not intervene further in the proceeding.

6. Discussion and Findings

Preliminary Procedural Issue: Consolidation

Pursuant to paragraph 10(e) of the Rules, the Complainant has requested the consolidation of the complaint in a single case.

The Panel notes that, according to the registration information disclosed by the Registrar, the registrant is identical for both disputed domain names. Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. Therefore, there is no necessity for the Panel to adjudicate the request of consolidation, here.

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 trademark WHATSAPP is recognizable within the disputed domain names. Although the addition of other terms (here, “pink”) 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 respective trademark for the purposes of the Policy. Accordingly, the disputed domain names are confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 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 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.

Furthermore, the Panel considers that the composition of the disputed domain names carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Indeed, they reproduce fully the distinctive trademark of the Complainant, and the addition of the word “pink” is likely to be perceived as designating a simple variant or marketing campaign of the world-famous application. See *WhatsApp, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Mohammed Alkalbani, Ops Alkalbani, M. Rashid Alkalbani*, WIPO Case No. [D2016-2299](#), “the WHATSAPP mark is not one that traders could legitimately adopt for commercial use other than for the purpose of creating an impression of an association with the Complainant. This is especially true considering that Respondent is using most of the disputed domain names to offer unauthorized versions of the Complainant’s instant messaging ‘app’ for download.”

Finally, the Respondent is not making a bona fide use of the disputed domain names. See *WhatsApp, Inc. v. Nasser Bahaj*, WIPO Case No. [D2016-0581](#), “Respondent is not making a bona fide offering of goods or services via the disputed domain names but is rather offering unauthorized and unlicensed versions of the Complainant’s application.”

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 disputed domain names resolve or redirect to websites that imitate the Complainant's trademark and logo without authorization and which purportedly offer complementary services to those of the Complainant. In the Panel's view, it is not necessary to apply the Oki Data test here: the Respondent is not making fair use of the genuine brand of the Complainant, let alone in connection with the genuine services offered by the Complainant. It promotes its own allegedly improved version of the world-known application, which imitates the trademark and logo of the Complainant, in its own pink version. This clearly amounts to bad faith.

The Respondent has configured and used the disputed domain names to intentionally attract, for commercial gain, Internet users to its websites or other online locations, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location. This use constitutes bad faith according to paragraph 4(b)(iv) of the Policy.

Also, there is a significant risk of phishing activities by the Respondent, for which the Complainant raises legitimate concerns. In this regard, the Panel notes the Respondent was active in the present dispute and received the Complaint, which included the Complainant's serious contentions regarding, inter alia, a significant risk of phishing activities, but did not deny the Complainant's contentions or otherwise explain its actions in connection to the disputed domain names.

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

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 <pinkwhatsapp.net> and <pinkwhatsapp.org> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: December 24, 2024