

## ADMINISTRATIVE PANEL DECISION

WhatsApp, LLC v. Waqar Malghani, Pariwiki  
Case No. D2024-4515

### 1. The Parties

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

The Respondent is Waqar Malghani, Pariwiki, Pakistan.

### 2. The Domain Name and Registrar

The disputed domain name <gbwhatsapp.click> is registered with Dynadot Inc (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 name. On November 6, 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 6, 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 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 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on December 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 United States-based company, which provides a popular service to exchange messages via smartphones.

The Complainant is the owner of the word and figurative mark WHATSAPP, which is registered in a large number of jurisdictions around the world. Among many others, the Complainant is the owner of the United States Trademark Registration No. 3939463 for WHATSAPP, registered on April 5, 2011, covering protection for various services as protected in class 42.

The Complainant further holds and operates various domain names consisting of or including its WHATSAPP trademark, such as <whatsapp.com>.

The Respondent is reportedly located in Pakistan.

The disputed domain name was registered on March 3, 2024.

According to the documents provided by the Complainant, the disputed domain name resolves to a website in English language that prominently uses the WHATSAPP trademark to allegedly offer a modified version of the Complainant's mobile application, without any visible disclaimer describing the (lack of) relationship between the Parties.

#### **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.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

*Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel might, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

It is further noted that the Panel has taken note of [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

#### **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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the WHATSAPP trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the WHATSAPP mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms or letters, here "gb", may bear on assessment of the second and third elements, the Panel finds the addition of such letters 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. There is no evidence that the Respondent is commonly known by the disputed domain name, nor there are any circumstances or activities that would establish the Respondent's rights or legitimate interests therein.

Even more, the Panel particularly notes the nature of the disputed domain name, which comprises the Complainant's WHATSAPP trademark in its entirety. Furthermore, the allegedly offered mobile application by the Respondent is apparently competing with the mobile application as offered by the Complainant under

its WHATSAPP trademark. In view of the Panel, all this clearly indicates the Respondent's awareness of the Complainant and its WHATSAPP trademark and its illicit intent to take unfair advantage of it for commercial gain, which does not support a finding of any rights or legitimate interests.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have had the Complainant and its WHATSAPP trademark in mind when registering the disputed domain name. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name, which comprises the Complainant's WHATSAPP trademark in its entirety, to target the Complainant and to freeride on the notoriety of its popular mobile application. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent is using the disputed domain name in order to generate traffic to its own website by misleading third parties in a false belief that the website associated to the disputed domain name is operated or at least authorized by the Complainant. Particularly, the inherently misleading nature of the disputed domain name and the alleged offering of a competing mobile application, is in view of the Panel evidence of the Respondent's bad faith intent to target the Complainant and its services for illegitimate commercial gain by deliberately creating a likelihood of confusion with the Complainant's WHATSAPP trademark.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name 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 name <gbwhatsapp.click> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: December 24, 2024