

## **ADMINISTRATIVE PANEL DECISION**

WhatsApp, LLC v. Muhamamd Ukasha  
Case No. D2024-4962

### **1. The Parties**

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

The Respondent is Muhamamd Ukasha, Pakistan.

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

The disputed domain name <anwhatsapk.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 2, 2024. On December 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 3, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2025.

The Center appointed Reyes Campello Estebaranz 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 is a United States company founded in 2009. It operates globally under the trademark WHATSAPP, providing a mobile messaging application (“app”) that allows users across the globe to exchange messages via smartphones. The Complainant’s messaging app is also globally identified by a logo consisting of a telephone within a green circle. The Complainant’s main website available at “www.whatsapp.com” also allows Internet users to access its messaging platform.

The Complainant holds registered trademark rights in the mark WHATSAPP as well as in the mark WHATS and its telephone logo in many jurisdictions being the owner of a substantial trademark portfolio, including:

- US Trademark Registration No. 3,939,463, WHATSAPP, registered on April 5, 2011;
- Pakistani Trademark Registration No. 302143, WHATSAPP, registered on May 27, 2011;
- International Trademark Registration No. 1085539, WHATSAPP, registered on May 24, 2011;
- European Union Trade Mark Registration No. 017923676, WHATS, registered on March 8, 2019; and
- International Trademark Registration No. 1109890, figurative mark, registered on January 10, 2012, with the following representation:



(collectively hereinafter referred “the WHATSAPP mark”, “the WHATS mark” or “the telephone logo” respectively).

Prior decisions under the Policy have recognized the global reputation and well-known character of the Complainant’s trademarks<sup>1</sup>.

The Complainant further owns numerous domain names comprising its trademarks, under various generic Top-Level Domains (“gTLDs”) and country code Top-Level Domains (“ccTLDs”), which are linked to its corporate websites in connection with its services, including <whatsapp.com> (registered on September 4, 2008), <whatsapp.net> (registered on February 20, 2009), <whatsapp.org> (registered on February 1, 2010), <whatsapp.biz> (registered on February 1, 2010), <whatsapp.pk> (registered on April 8, 2017), and <whatsapp.com.pk> (registered on December 4, 2017).

The disputed domain name was registered on August 3, 2023, and it is redirected to an active website in English language, “www.anwtpk.com”, that purportedly offers various versions of the WhatsApp messaging app allegedly reconfigured with additional features. This website displays at its heading a yellow version of the Complainant’s telephone logo and the text “AN WhatsApp”, and it further includes numerous references to the WHATSAPP mark within its content. This website further prominently displays a downloading clicking button preceded by the text “AN WHATSAPP | ANWhatsApp DOWNLOAD APK FOR ANDROID V42 [LATEST]” and includes various references to the “official WhatsApp” and its comparison with the offered different versions of the same, which are identified as “unofficial” or “illegal”. The site includes a Q&A section (placed at the bottom) indicating, “What’s anwhatsapp apk? ANWhatsapp apk is an alternative to the original WhatsApp made by Ammar AL Awadi. In AN Whatsapp download, Advance Network is the full form of AN. It is an unofficial whatsapp due to it’s developed by a third party developer” and “Is this version of whatsapp, AN Whatsapp, illegal? It’s true that it is illegal because it is an unofficial app, but still, you can use it effortlessly, as your account will never ever get banned. So what’s the problem with using this app? Don’t panic; just use and chill.” The “About Us” section does not include the name of the owner of the website or that of the disputed domain name, the “Contact Us” section includes an email address and a contact form, and other sections of the site (“Privacy policy” and “Terms of Use”) identify the owner of the site as

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<sup>1</sup> See, e.g., *WhatsApp, Inc. v. Abdallah Almqbali*, WIPO Case No. [D2016-1287](#); *WhatsApp Inc. v. Luis Raffael Sanchez De La Cruz*, WIPO Case No. [D2019-2485](#); *WhatsApp Inc. v. Contact Privacy Inc. Customer 0153186272 / MOHD WILDAN AMIR MUSA*, WIPO Case No. [D2019-0456](#); *WhatsApp Inc. v. Donald Huen*, WIPO Case No. [D2020-2331](#); and *WhatsApp LLC. v. Sanjay kumar*, WIPO Case No. [D2022-3045](#).

“anwtpk.com”. This website does not include any information about its lack of relationship with the Complainant and its trademarks. The copyright notice indicates, “© 2024 AN WhatsApp”.

On September 24, 2024, the Complainant sent a cease and desist letter to the Respondent through the email address listed in the Whois record for the disputed domain name, as well as to the email address indicated in the “Contact Us” section of the website. According to the Complainant’s allegations, the Respondent did not reply to this communication.

## **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.

Notably, the Complainant contends the disputed domain name is confusingly similar to its trademarks. It incorporates the WHATS mark in its entirety, with the addition of the terms “an” and “apk” (acronym for “Android Package Kit”). It further comprises a misspelling of the WHATSAPP mark, replacing its last letter “p” with a “k”. Both trademarks are clearly recognizable in the disputed domain name.

The Complainant further contends the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, nor has it been authorized to use the Complainant’s trademarks, and the disputed domain name is not used in connection with a bona fide offering of goods or services. The list of factors set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), are not met in this case. The Respondent is making an unauthorized use of the Complainant’s trademarks to market third party’s software (not the Complainant’s app), and the Respondent’s website does not accurately and prominently disclose its lack of relationship with the Complainant. The modified unauthorized versions developed by third parties offered by the Respondent violate the WhatsApp Terms of Service and seek to trade off the goodwill and reputation associated with the Complainant’s trademarks.

The Complainant finally contends the disputed domain name was registered and is being used in bad faith. All leading search results for the term “WhatsApp” at Google search engine refer to the Complainant and given the reputation of the Complainant’s app and its trademarks, the Respondent could not credibly argue it did not have knowledge of these marks when it registered the disputed domain name. The Respondent’s website demonstrates actual knowledge of the Complainant, its app and its trademarks, and indicates the Respondent registered the disputed domain name with the intent to generate confusion or affiliation with the Complainant to attract Internet users for the promotion of unauthorized versions of the Complainant’s app for commercial gain. The use of unauthorized versions of the WhatsApp application places the security of its users at risk and disrupts the Complainant’s business. The Respondent’s failure to reply to the Complainant’s cease and desist letter is a further indicator of its bad faith.

### **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

## **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, namely the WHATSAPP and WHATS marks. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the WHATS mark, and the almost entirety of the WHATSAPP (except its last letter "p" that is replaced by a letter "k"), are reproduced within the disputed domain name. Accordingly, the Panel finds these trademarks are recognizable within the disputed domain name, and the disputed domain name is confusingly similar to these marks for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

Although the addition of other terms here, the prefix "an" and the last letter "k" or the term "apk", 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 name and the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, 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.

The Panel finds nothing in the record indicating the Respondent may have any rights or legitimate interests in the disputed domain name.

The Panel notes the terms "whatsapp" or "anwhatsapk" do not share any similarity with the Respondent's name revealed by the Registrar's verification.

The Panel has further corroborated through various searches over the Global Brands Database using the Respondent's name, that the Respondent does not own any registered trademark consisting of or including the terms "whatsapp", "anwhatsapk" or "an whats apk", and it apparently owns no trademark registrations at all.<sup>2</sup>

The Panel further notes the disputed domain name is not used in connection to a bona fide offering of goods or services, but to redirect traffic to a website that generates confusion or affiliation with the Complainant, its messaging app and its trademarks. In this respect, the Panel notes the disputed domain name redirects to a website ("www.anwtpak.com") that prominently includes numerous references to the Complainant's trademarks both at its heading and within its content or even within its copyright note, and this site further displays a modified version of the Complainant's reputed telephone logo changing its color to yellow. Additionally, this website does not include information about its owner or that of the disputed domain name, nor does it include any information about its lack of relationship with the Complainant, its messaging app, and its trademarks.

The Panel further notes the website to which the disputed domain name redirects offers unlicensed modified by third parties' versions of the Complainant's messaging app that may compete with the Complainant and its business.

The nominative fair use of a trademark in a domain name by retailers, distributors or services providers is acceptable under certain circumstances outlined in the "Oki Data test" (in reference to *Oki Data Americas, Inc. v. ASD, Inc.*, *supra*). [WIPO Overview 3.0](#), section 2.8. However, the Panel finds the Respondent clearly fails this test as its website (i) does not exclusively refer to the Complainant's messaging app, but to unauthorized versions of this app made by third parties; and (ii) it does not accurately and prominently disclose the Respondent's lack of relationship with the Complainant and its trademarks, but generates confusion. It uses the marks WHATS and/or WHATSAPP within its content and in its copyright note, as well as a modified yellow version of the Complainant's reputed telephone logo. Therefore, the Panel considers the Respondent's website deliberately generates confusion or affiliation with the Complainant and its trademarks, to increase the traffic to this site, to explode the Complainant's messaging app reputation, and to offer unauthorized versions of this app that may compete with the official WhatsApp application, for a commercial gain. Such use can never be considered a bona fide offering under the Policy.

The Panel finds the use of the disputed domain name indicates an intention to generate confusion or affiliation with the Complainant and its reputed messaging app, which alongside with the offer of unauthorized modified versions of the Complainant's app, the potential distribution of malware and/or collection of users' personal sensible information, constitutes an illegal or illegitimate activity that can never confer rights or legitimate interests on the Respondent. Panels have held that the use of a domain name for illegal or illegitimate activity, here claimed distribution of unauthorized software, phishing, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, 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.

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<sup>2</sup>Noting in particular the general powers of a panel, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. [WIPO Overview 3.0](#), section 4.8.

In the present case, the Panel finds the reputation of the Complainant's messaging app and its trademarks, alongside with the composition and the use of the disputed domain name, indicates the Respondent acted in bad faith.

The Panel notes the strong reputation and global use of the Complainant's messaging app and its WHATS and WHATSAPP marks since its launch over 13 years before the registration of the disputed domain name, as well as its extensive presence over the Internet. The Panel has corroborated through various searches over the Internet for the terms "whats" and "whastap", that these searches prominently reveal the Complainant's application and its trademarks.

The Panel further notes the disputed domain name contains the WHATS mark as well as a misspelled version of the WHATSAPP mark, combined with a final letter "k" instead of "p", which further creates a term related to the digital field, where the Complainant operates and has obtained its reputation, the term "apk", acronym for "Android Package Kit". The Panel finds such conscious combination of the marks with a term related to the Complainant's field of activity increases the risk of confusion or affiliation by Internet users, and, together with all other circumstances of this case, leads to consider the Respondent likely knew of the Complainant, its app and its trademarks and deliberately registered the disputed domain name in bad faith.

The Panel further finds the use of the disputed domain name reveals the intention to generate confusion or affiliation with the Complainant and its trademarks for a commercial gain: the distribution of unauthorized software, and possibly the distribution of malware and phishing of personal sensible information from Internet users. The Respondent's website content leads to this conclusion, as this website include the Complainant's marks as well as a yellow version of its reputed logo, does not identify its owner, and includes no prominent indication of the lack of relationship between the Parties, and it includes a contact form as well as an email address. The Respondent itself recognizes within the content of its website that its activity is illegal, as it indicates, "Is this version of whatsapp, AN Whatsapp, illegal? It's true that it is illegal because it is an unofficial app, but still, you can use it effortlessly, as your account will never ever get banned. So what's the problem with using this app? Don't panic; just use and chill."

The use of the disputed domain name to offer unauthorized software and potentially to collect users' personal sensible information constitutes an illegal or illegitimate activity that constitutes bad faith. Panels have held that the use of a domain name for illegal or illegitimate activity constitutes bad faith.

[WIPO Overview 3.0](#), section 3.4.

Under these circumstances, the Panel finds the Respondent's failure to respond to the Complainant's cease and desist communication, to the Complaint and to the factual allegations made by the Complainant may properly be considered relevant as further factors affirming a finding of bad faith.

Therefore, the Panel finds 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 <anwhatsapk.com> be transferred to the Complainant.

*/Reyes Campello Estebaranz/*

**Reyes Campello Estebaranz**

Sole Panelist

Date: January 27, 2025