

ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Aina Jannat Aina Jannat
Case No. D2024-5147

1. The Parties

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

The Respondent is Aina Jannat Aina Jannat, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <whatsappgb.one> (the “Domain Name”) is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name 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 December 16, 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 December 19, 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 December 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2025.

The Center appointed Nicholas Smith as the sole panelist in this matter on January 16, 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 California-based company, founded in 2009 and acquired by Meta Platforms, Inc. (formerly Facebook, Inc.) in 2014. The Complainant provides, under the trademark WhatsApp ("WHATSAPP Mark"), one of the world's most popular mobile messaging applications. The Complainant's WhatsApp app is available on iPhone and Android products and as of 2023 had over two billion monthly users worldwide.

The Complainant holds a registered trademark in various jurisdictions for the WHATSAPP Mark including in the United States (registration No. 3,939,463) for services in Class 42, registered on April 5, 2011, with a first use in commerce of February 24, 2009.

The Domain Name was registered on January 10, 2024. Prior to the commencement of the proceeding it resolved to a website ("Respondent's Website") where the Respondent promoted an unauthorized and modified Android Package Kit ("APK") version of the Complainant's WhatsApp app while also using a variation of Complainant's figurative trademark and a similar colour scheme.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) the Domain Name is identical or confusingly similar to the Complainant's WHATSAPP Mark;
- (ii) the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is subsequently being used in bad faith.

The Complainant is the owner of the WHATSAPP Mark, having registered the mark in numerous jurisdictions around the world. The Domain Name is confusingly similar to the WHATSAPP Mark as the Domain Name wholly reproduces the WHATSAPP Mark in its entirety and adds the "gb" element and the ".one" generic Top-Level Domain ("gTLD").

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Respondent is not commonly known by the Domain Name, has no licence or right to use the Domain Name and has never been granted any permission by the Complainant for the registration of the Domain Name. The use of a domain name corresponding to the Complainant's WHATSAPP Mark for a website promoting an unauthorized modification to the Complainant's app that also breaches the Complainant's terms of service is not bona fide, fair use or an otherwise legitimate noncommercial purpose.

The Domain Name was registered and is being used in bad faith. The Domain Name was registered with awareness of the Complainant's trademarks and is being used in a manner that will mislead users into thinking that the APK offered on the Respondent's Website is authorised or endorsed by the Complainant which is not the case.

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds 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 entirety of the WHATSAPP mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here "gb", may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the 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 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 Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent's use of the Domain Name to resolve to a webpage reproducing the Complainant's WHATSAPP Mark, a modified version of their figurative trademark and colour scheme and purporting to offer a modified APK version of the Complainant's app, does not amount to use for a bona fide offering of goods and services. Rather, it appears that the purpose behind the Respondent's Website is to encourage visitors, under the impression that they are dealing with the Complainant, to use the Respondent's APK, which is an unauthorized third-party application that trades off the goodwill and reputation of the Complainant and its mark, such conduct not being bona fide.

The Panel also notes that the Domain Name now resolves to a website that appears to offer a similar unauthorized APK version of a well-known app offered by a party unconnected to the Complainant. The Panel finds that this use, which appears to be of a similar nature to the use described in the paragraph above, is also insufficient to amount to a bona fide offering of goods and services.

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.

The Panel finds that the Respondent must have been aware of the Complainant and its significant global reputation in the WHATSAPP Mark at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name incorporating the WHATSAPP Mark (with the addition of the term "gb") and direct it to a website purportedly offering an unauthorized version of Complainant's product unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its WHATSAPP Mark.

The Respondent's Website purported to offer an APK version of the Complainant's product in direct competition with the Complainant. Noting the fame of WHATSAPP Mark, the absence of any explanation for the registration and the similarity of a number of the elements in the design and layout of the Respondent's Website to the Complainant's intellectual property, the Panel considers that the most likely explanation is that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the WHATSAPP Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 <whatsappgb.one> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: January 17, 2025