

## ADMINISTRATIVE PANEL DECISION

WhatsApp LLC v. Du chengfu  
Case No. DBZ2024-0001

### 1. The Parties

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

The Respondent is Du chengfu, China.

### 2. The Domain Name and Registrar

The disputed domain name <gbwhatsapp.com.bz> is registered with Key-Systems GmbH (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 26, 2024. On February 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 29, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 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 March 5, 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 March 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on April 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**

Founded in 2009 and acquired by Meta Platforms, Inc. (“Meta”, formerly known as Facebook, Inc.) in 2014, the Complainant is a provider of one of the world’s most popular mobile messaging applications (or “apps”).

According to applications information company Data.ai (formerly known as App Annie), WhatsApp is the 4th most downloaded application for iOS phones worldwide and used by over 2 billion active users.

The Complainant also has strong presence on various social-media platforms. Its official page on Facebook has over 35 million “likes”. In addition, WhatsApp has 5.5 million followers on Twitter.

The Complainant is owner of trademark registrations for WHATSAPP in numerous jurisdictions around the world, including the International Trademark Registration (“IR”) No. 1085539, registered on May 24, 2011; and the Chinese Trademark Registration No. 21470708A, registered on December 21, 2017.

The Complainant also owns figurative trademark registration for its “green and white telephone logo” including the IR No. 1109890, registered on January 10, 2012; and the Chinese Trademark Registration No. 22438669, registered on October 21, 2020.

In addition, the Complainant owns numerous domain names comprising its WHATSAPP mark under various generic and country code Top-Level Domains (gTLDs and ccTLDs). The Complainant’s main website is available at “www.whatsapp.com” where Internet users can access its messaging platforms. The corresponding domain name <whatsapp.com> was registered on September 4, 2008.

The disputed domain name was registered on March 1, 2023, and has been resolving to a website which makes prominent references to the Complainant’s WHATSAPP mark, uses its signature green and white telephone logo and variations thereof and purports to offer for download various unauthorized modified versions of the Complainant’s WhatsApp application in Android Package Kit (“APK”) file format.

#### **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 that:

- the disputed domain name which incorporates its WHATSAPP trademark in its entirety with addition of the letters “gb” is confusingly similar to the trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the Respondent registered the disputed domain name with full knowledge of its well known WHATSAPP mark and is using it to attract Internet users to its website for promotion of unauthorized modified versions of the Complainant’s WhatsApp app which is evidence of bad faith registration and use of the disputed domain name.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) the domain name has been registered and is being used in bad faith.

### **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 entirety of the WHATSAPP mark is reproduced and 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 the letters "gb" may bear on assessment of the second and third elements, the Panel finds that such addition 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 that 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 Complainant has evidenced that the Respondent has been using the disputed domain name to direct Internet users to a website which makes prominent references to the Complainant's WHATSAPP mark, uses its signature green and white telephone logo and variations thereof and purports to offer for download various unauthorized modified versions of the Complainant's WhatsApp application in APK file format.

The Complainant has not authorized, licensed, or allowed the Respondent or any third party to use its WHATSAPP mark in a domain name or otherwise, and its Brand Guidelines and Terms of Service expressly prohibit the registration of domain names that could be confused with WhatsApp.

The Respondent is not a reseller or service provider of the Complainant as it is not actually offering WhatsApp, but rather unauthorized modified versions of WhatsApp. Such use of the disputed domain name does not amount to a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy. [WIPO Overview 3.0](#), section 2.8.

The website at the disputed domain name prominently and frequently displays the Complainant's WHATSAPP trademark and its signature logo which use supports the risk of implied affiliation of the disputed domain name incorporating the Complainant's trademark and thus cannot confer rights or legitimate interests of the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

The above factors establish a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name and the Panel finds that 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 Complainant's WHATSAPP trademark is inherently distinctive for the corresponding goods and services and its priority date predates the date of registration of the disputed domain name;
- that a basic Internet search for WHATSAPP returns solely the Complainant and its business; and
- that the website at the disputed domain name makes multiple references to the Complainant's WHATSAPP mark and its signature green and white telephone logo.

The above discussed facts and circumstances in view of the Panel clearly show the Respondent's actual knowledge of the Complainant and its mark at the time of registration of the disputed domain name as well as the Respondent's targeting of the Complainant and its trademark within the meaning of paragraph 4(b)(iv) of the Policy.

In addition, the Panel finds that the Respondent's promotion of unauthorized modified versions of the Complainant's WhatsApp application and driving the Complainant's users to third-party applications qualifies as bad faith attempt to disrupt the Complainant's business within the meaning of paragraph 4(b)(iii) of the Policy.

Last but not least, UDRP panels have repeatedly recognized the global renown of the Complainant's WHATSAPP trademark (see e.g., *WhatsApp, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Mohammed Alkalbani, Ops Alkalbani, M. Rashid Alkalbani*, WIPO Case No. [D2016-2299](#); and *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](#)).

The mere registration of a domain name that is identical or in this case confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [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 <gbwhatsapp.com.bz> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: April 24, 2024