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**BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA
.IN REGISTRY**

Arbitral Award in Case No. 1631
Ms. Punita Bhargava, Sole Arbitrator
Disputed domain name: <whatsappmarketing.in>

(Signature)

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In the matter of

WhatsApp LLC
1601 Willow Road
Menlo Park, California 94025
USA

... Complainant

Vs.

Ada Pascal
1337 Services LLC
P.O. Box 590, Charlestown KN0802
Saint Kitts and Nevis

...Respondent

1. The Parties

The Complainant in this proceeding is WhatsApp LLC, an American corporation of 1601 Willow Road, Menlo Park, California 94025, United States of America. Its representatives are David Taylor and Jane Seager of Hogan Lovells (Paris) LLP of 17, avenue Matignon, 75008 Paris, France.

The Respondent in this proceeding is Ada Pascal of 1337 Services LLC of the address P.O. Box 590, Charlestown KN0802, Saint Kitts and Nevis with telephone number +1 6282511337 and email id whois+whatsappmarketing.in@njal.la.

2. Disputed Domain Name and Registrar

This dispute concerns the domain name <whatsappmarketing.in> (the 'disputed domain name') registered on July 31, 2019. The Registrar with which it is registered is Tucows Inc. of 96 Mowat Ave., Toronto ON M6K3M1, Canada.

3. Procedural History

This proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (Policy/INDRP), adopted by the National Internet Exchange of India (NIXI).

By its email of November 10, 2022 NIXI requested availability of Ms. Punita Bhargava to act as the Sole Arbitrator in the matter. The Arbitrator indicated her availability and submitted the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the .INDRP Rules of Procedure (Rules) on the same date. Thereafter, in accordance with the Rules, NIXI appointed the Arbitrator by email of November 10, 2022 and also notified the Respondent of the Complaint.

As the Arbitral Tribunal is properly constituted, the Arbitrator sent an email on November 12, 2022 to the Complainant asking for amended complaint to be filed by November 15, 2022 keeping in mind the word limit and number of pages prescribed by the Rules so that the arbitration proceeding could be commenced.

The Complainant timely filed the amended complaint and annexures. Accordingly, on November 15, 2022 the Arbitrator sent an email informing all concerned of the

commencement of the proceeding, asking the Complainant to comply with the service formalities and asking the Respondent to file its Reply by November 30, 2022.

On the same date, the Complainant provided proof of service of the Complaint and Annexures on the Respondent by email. With regard to service of hard copy, it requested for waiver of this requirement as the Respondent's postal address listed in Whois relates to a privacy service based in Saint Kitts and Nevis. This request was allowed by the Arbitrator.

On December 2, 2022, the Arbitrator sent a communication to all concerned that no response was received from the Respondent within the time stipulated and accordingly, the Award will be passed based on the material available.

4. The Complaint and its rights in WHATSAPP


The Complainant states that it is a provider of one the world's most popular mobile messaging application (app). Founded in 2009 and acquired by Meta Platforms, Inc. (formerly, Facebook, Inc.) in 2014, WhatsApp allows users across the globe to exchange messages for free via smartphones, including iPhone, BlackBerry and Android. Its main website available at www.whatsapp.com also allows Internet users to access its messaging platform.

Since its launch in 2009, WhatsApp has become one of the fastest growing and most popular mobile applications in the world, with over 2 billion monthly active users worldwide. WhatsApp has acquired considerable reputation and goodwill worldwide, including in India. Consistently being ranked amongst Apple iTunes' 25 most popular free mobile applications and Tech Radar's Best Android Apps, WhatsApp is the most downloaded application both in the world and in India as per Data.ai's (formerly App Annie) Top Apps Worldwide Ranking in 2022. The Complaint has filed screenshot of its website, its Wikipedia entry, press articles on Meta's acquisition of WhatsApp in 2014 and WhatsApp's rankings and its rapid growth and popularity worldwide, including in India.

The Complainant states that it is the owner of numerous domain names consisting of the WHATSAPP trademark such as <whatsapp.com>, <whatsapp.net>, <whatsapp.org>, <whatsapp.biz>, <whatsapp.info>, as well as numerous country code extensions like <whatsapp.in>, <whatsapp.co.in>, <whatsapp.co.za>, <whatsapp.us>, <whatsapp.de> and several others. It has filed copies of Whois details for these.


In addition to the services outlined above, the Complainant states that it provides a message application specifically designed for businesses under "WhatsApp Business". It is a free-to-download application for small businesses aimed at helping them connect more easily with their customers and features a variety of functionalities such as messaging statistics or business profiles. WhatsApp Business was launched on January 18, 2018 and has enjoyed great success and popularity throughout the world (including in India) since then. It currently has more than 50 million users globally, of which at least 15 million are based in India. Details of this app, its development and success have been filed.

The Complainant owns numerous trademark registrations in the term WHATSAPP in many jurisdictions throughout the world, including in India. These include:

- Indian Trademark No. 2149059 for WHATSAPP registered on 24 may 2011;
- United States Trademark No. 3939463 for WHATSAPP registered on 5 April 2011;
- International Trade mark No. 1085539 for WHATSAPP registered on 24 may 2011; and
- Indian figurative trademark for  under no. 3112338 registered on 1 December 2015.

It has filed copies of these trademark registrations with the Complaint.

5. The Respondent and the disputed domain name

The Complainant states that the disputed domain name previously redirected to a website at <https://whatsappbusinessapi.co>, which had a similar "look and feel" to the Complainant's official website, prominently displaying the distinctive WhatsApp speech bubble logo  and featuring the same green color scheme, without any visible disclaimer regarding the website owner's relationship (or absence of relationship) with the Complainant. The website promoted a purported "WhatsApp Business API", which was described as "the most powerful WhatsApp script to automate your marketing campaigns at a one-time cost" by allowing its users, *inter alia*, to send "millions of automated messages via WhatsApp". Internet users could sign up for a free trial by providing their personal data, such as name, WhatsApp number and email address. Screen shots from the website previously at <https://whatsappbusinessapi.co> and proof of have been filed.

In addition to the disputed domain name, the Respondent also owns the domains <whatsappbusinessapi.co>, <whatsappcampaign.com>, <whatsappmarketing.co>, <whatsappmarketing.xyz> and <whatsappsolutions.com> comprising the Complainant's WHATSAPP trade mark. Prior to filing of this Complaint, the Complainant initiated a UDRP proceeding involving these domain names, which were registered and used under highly similar naming circumstances to those in the present case. As per the disclosed registrant information, the legal owner of the five domain names is also "1337 Services LLC" based in Saint Kitts and Nevis. Furthermore, various commonalities such as the same IP ranges and ASN, the same registrar and the similar naming pattern strongly suggest that the disputed domain name and the five domain names included in the previous UDRP complaint are either registered by the same underlying beneficial owner or under common control. Further to Complainant's enforcement action, the disputed domain name no longer redirects to the website in question.

The Complainant states that on August 17, 2022, its lawyers sent a cease and desist letter in relation to the disputed domain name and the other five domain names to the Respondent via the forms made available by the Registrar, asserting trademark rights and requesting the transfer of all domain names. However, no reply has been from the Respondent.

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The Complainant has filed the present Complaint in order to request transfer of the disputed domain name under the INDRP to protect its legitimate business interests and rights and to protect the general public from confusion.

6. **Legal Grounds pleaded by the Complainant**

With regard to the three elements of the Policy, the Complainant submits as under and asserts that each of the three factors are established:

A. **The disputed domain Name is confusingly similar to the Complainant's trademarks**

Given the Complainant's trademark registrations, it states that it has established its trademark rights in the term WHATSAPP for the purpose of INDRP. The disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name incorporates the Complainant's WHATSAPP trademark in its entirety with the addition of the descriptive term "marketing". Since the Complainant's WHATSAPP trademark is clearly recognizable as the leading element of the disputed domain name, it is generally held by prior panels under the INDRP and UDRP that the addition of the descriptive term "marketing" cannot prevent a finding of confusing similarity with the Complainant's trademarks. It relies on Amazon Technologies Inc. v. Logistics, INDRP/939 (<amazoncareer.in>) where it was held "It is a settled law enunciated in various decisions UDRP and INDRP that the addition of a generic term that is descriptive of the goods and services increases the confusing similarity of the domain name."

With regard to the .IN ccTLD, the Complainant states that it is well established under the INDRP that such suffix should be disregarded when assessing whether a domain name is identical or confusingly similar to a complainant's trademark.

Thus, the disputed domain name is confusingly similar to the Complainant's trade mark in accordance with paragraph 4(a) of the INDRP.

B. **The Respondent has no rights or legitimate interests in respect of the disputed domain name**

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name. Numerous prior panels have held under INDRP that "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element." It relies on Instagram LLC v. DING RiGuo., INDRP/1183 (<instagram.in>).

The Complainant states that it has not authorized, licensed or otherwise allowed the Respondent to make any use of its WHATSAPP trademark in a domain name or otherwise. Previous panels have held that the lack of such prior authorization would be sufficient to establish a *prima facie* case regarding the respondent's lack

of rights or legitimate interests in the disputed domain name. It relies on Wacom Co. Ltd. v. Liheng, INDRP/634, (<wacom.in>) finding no legitimate interest where "the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name".

The Complainant states that the Respondent cannot assert that, prior to any notice of this dispute, it was using or had made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services in services in accordance with Paragraph 6(a) of INDRP.

The fact that the Respondent used the disputed domain name which is confusingly similar to the Complainant's trademark, to redirect users to its website at <https://whatsappbusinessapi.co> which had a similar "look and feel" as the Complainant's website without displaying any disclaimer accurately and prominently disclosing the website's relationship with the Complainant and promoted a purported "WhatsApp Business API" enabling, inter alia, bulk messaging via WhatsApp, obviously for commercial gain, cannot be considered as bona fide use as it was clearly attempting to trade off reputation and goodwill attached to the Complainant's trade mark and business. It relies on WhatsApp Inc., Facebook, Inc. v. Alex Xu, HKITN, WIPO Case No. D2019-1709 (<facebook-marketingk.com> et al.) and Adobe Inc. v. Seeds Provider, INDRP/1255 (<adobeind.in>).

The Complainant states that it is very likely that the marketing software promoted on the Respondent's website may be used to send unsolicited electronic communication (spam) via WhatsApp, for phishing, or for other unauthorized activities. The Respondent's previous use of the disputed domain name not only promoted activities that would place the security of WhatsApp users at risk but also violated the WhatsApp Business Terms of Service, a copy of which is filed.

There being no license or any other authorization for the Respondent to use the disputed domain name, the Complainant asserts that the Respondent's use of the same should not be considered as bona fide use particularly in light of the Complainant's terms and policies.

The Complainant states that the Respondent cannot conceivably claim that it is commonly known by the disputed domain name in accordance with Paragraph 6 (b) of INDRP. Neither the Respondent's name "Ada Pascal" nor the organization name "1337 Services LLC" bears any resemblance to the disputed domain name. To the best of the Complainant's knowledge, the Respondent has not secured or even sought to secure any trademark rights in the WHATSAPP or WHATSAPP MARKETING. The Respondent's previous use of the disputed domain name to promote WhatsApp marketing software does not support any reasonable claim of being commonly known by the disputed domain name, nor does it give rise to any reputation in the disputed domain name itself, independent of the Complainant's trademark rights.

Given the WhatsApp marketing software promoted on the website previously associated with the disputed domain name, the Respondent cannot assert that it has made a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain pursuant to Paragraph 6 (c) of INDRP.

C. Registration and Use in Bad faith

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. It submits Paragraphs 7(b) and 7(c) of INDRP are of particular relevance in the present case and other factors exist that strongly indicate the Respondent's bad faith.

The Complainant states that its WHATSAPP trademark is inherently distinctive and well known throughout the world in connection with its messaging application, having been continuously and extensively used since the respective launching of its services and acquiring considerable reputation and goodwill worldwide including in India. All search results obtained by typing this term in Google search engine at www.google.com and www.google.co.in refer to the Complainant, screen shots of which are filed. Given the Complainant's renown and goodwill worldwide including in India and its trademark rights established long before the registration of the disputed domain name, it would be inconceivable for the Respondent to argue that it did not have knowledge of the Complainant's WHATSAPP trademark when it registered the disputed domain name in 2019. It relies on WhatsApp Inc. v. Warrick Mulder, INDRP/1233 (<whatsap.in>) where it was observed "At the time of registration of the Disputed Domain Name, the Complainant was using the registered trademark 'WHATSAPP' and the Respondent knew, or at least should have known, of the existence of the Complainant's trademark 'WHATSAPP'."

The Complainant submits that the Respondent registered the disputed domain name in 2019 with full knowledge of the Complainant's rights. Prior panels have held actual knowledge of a well-known trade mark at the time of registration of a domain name constitutes strong evidence of bad faith. It relies on QRG Enterprises Limited & Havells India Limited v. Zhang Mi, INDRP/852 (<qrg.co.in >) where it was observed that "Such registration of a domain name based on awareness of a trademark is indicative of bad faith registration under the Policy."

The Complainant further submits that the Respondent has engaged in a pattern of conduct by registering not only the disputed domain name but also five other domain names for the purposes of preventing the Complainant from reflecting its trademarks in corresponding domain names.


The fact that the Respondent's organization appears to be a privacy service strongly suggests an attempt to shield illegitimate conduct from a legal proceeding and therefore constitutes additional evidence of bad faith at the time of registration of the disputed domain name by its underlying beneficial owner. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), Section 4.4.6:

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"Particularly noting UDRP paragraph 8(a), panels have found that where a 'disclosed' registrant is in turn what appears to be another privacy or proxy service (sometimes referred to as a 'Russian doll' scenario) or prima facie appears to be a false identity, such multi-layered obfuscation or possible cyberflight may support an inference of a respondent's bad faith, e.g., an attempt to shield illegitimate conduct from a UDRP proceeding."

The Complainant submits that by using the disputed domain name the Respondent has intentionally attempted to attract Internet users to online locations by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the website, in accordance with Paragraph 7(c) of INDRP.

Given the confusing similarity between the disputed domain name and the Complainant's trademark, and the use of the disputed domain name to redirect users to the website at <https://whatsappbusinessapi.co> reflecting the name of the Complainant's messaging application "WhatsApp Business" and containing the

Complainant's distinctive speech bubble logo  and green colour scheme, plus the absence of any disclaimer regarding the relationship with the Complainant, Internet users were likely to be misled into believing that the Respondent's website was somehow affiliated with or otherwise endorsed by the Complainant. Such use of the disputed domain name to intentionally attract users to a website supposedly providing paid marketing software via WhatsApp services, obviously for commercial gain, constitutes use in bad faith in accordance with Paragraph 7(c) of INDRP. The Complainant relies on Amazon Technologies Inc. v. Mr. Alex Parker, INDRP/1166 (<amazonemi.in>) where the Panel found that the use of the disputed domain name to point to a website selling products related to Amazon constitutes use in bad faith.

The disputed domain name was used in connection with a website promoting marketing software for the bulk sending of WhatsApp messages. There is an appreciable risk that such software may be used to send unsolicited electronic communication (spam), for phishing, or for other unauthorized activities. Such use not only place the security of WhatsApp users at risk but also violates WhatsApp Business Terms of Service which constitutes additional evidence of bad faith. The Complainant relies on Nintendo Co. Ltd. v. Svetlana Greegorieva, WIPO Case No. D2021-1144 (<switchendo.com>) where it was held "The un rebutted purposeful use of the disputed domain name to enable violation of Complainant's terms of service as strong evidence of bad faith registration and use under the Policy."

The fact that the disputed domain name no longer redirects to the website further to the Complainant's enforcement actions cannot cure the Respondent's bad faith. It relies on Facebook Technologies, LLC v. Vickie Tubbs, Chen Jiajin, WIPO Case No. D2022-1990 where it was held that "The panel notes that the use of the disputed domain names has now changed and they no longer resolve to any active website. This does not alter the Panel's conclusion; on the contrary, it may constitute further evidence of bad faith."

Finally, the Complainant submits that the Respondent's failure to reply to the Complainant's cease and desist letter sent via the registrant contact forms prior to the filing of this Complaint also indicates the Respondent's bad faith.

In view of the above submissions, the Complainant requests for transfer of the disputed domain name.

7. Respondent's Default

Despite notice of the present proceeding in terms of the Rules and an opportunity to respond, no response has been received from the Respondent in this matter by the Arbitrator.

8. Discussion and Findings

The Arbitrator has reviewed the Complaint and the Annexures filed by the Complainant.


The Policy requires that the Complainant must establish three elements *viz.* (i) the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; (ii) the Registrant has no rights or legitimate interests in respect of the domain name; and (iii) the Registrant's domain name has been registered or is being used in bad faith. These are discussed hereunder:

(i) Identical or Confusingly Similar

As regards this the first element, the Complainant has established that it has rights in WHATSAPP. It has been using the name and mark WHATSAPP since its founding in 2009. WhatsApp is one of the fastest growing and most popular mobile applications in the world, with over 2 billion monthly active users worldwide including India. It has acquired considerable reputation and goodwill worldwide, including in India and has been ranked amongst the most popular and best free mobile applications in the world and in India. There are at least 15 million users of WhatsApp Business in India.

The Complainant owns numerous domain names consisting of the WHATSAPP trade mark such as <whatsapp.com>, <whatsapp.net>, <whatsapp.org>, <whatsapp.biz>, <whatsapp.info> <whatsapp.in>, <whatsapp.co.in>, <whatsapp.co.za>, <whatsapp.us>, <whatsapp.de> and several others.

Most importantly, the Complainant owns numerous trademark registrations for the mark WHATSAPP in many jurisdictions throughout the world, including in India. In India it has registration for WHATSAPP under no.

2149059 and for  under no. 3112338. It also owns US registration No. 3939463 for WHATSAPP and an IR under no. 1085539, all of which are valid.

Based on the cases relied upon by the Complainant, it is evident that it has also been successful in seeking transfer or cancellation of domain names registered by others which incorporated the WHATSAPP or similar designation.

There is no dispute as to the Complainant's ownership of its registered and well-known trademark WHATSAPP.

The Arbitrator notes that the dominant part of the disputed domain name is WHATSAPP i.e., the disputed domain name wholly incorporates the Complainant's WHATSAPP mark and this is also the distinctive part of the same. The Respondent has simply taken the Complainant's WHATSAPP mark and has combined it with MARKETING, a descriptive term, and this is not sufficient to escape a finding of confusing similarity under the first element. MARKETING does not serve to distinguish the disputed domain name from the Complainant's WHATSAPP mark in any way. Rather, it is indicative of the Complainant's business or services and increases the element of confusion. It has been routinely held that the mere addition of a descriptive term or a non-significant element does not prevent a finding of confusing similarity. See Starbucks Corporation v. Registration Private, Domains by Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2019-1991. It has also been held that when a domain name wholly incorporates a complainant's registered mark, this is sufficient to establish identity or confusing similarity. See F. Hoffmann-La Roche AG v. Jason Barnes, ecnopt, WIPO Case No. D2015-1305, Swarovski Aktiengesellschaft v. mei xudong, WIPO Case No. D2013-0150, Wal-Mart Stores, Inc. v. Domains by Proxy, LLC / UFCW International Union, WIPO Case No. D2013-1304.

It is a well settled legal position that for the purpose of comparing a trademark with a disputed domain name, the country code top-level domain (ccTLD) can be excluded.

The Arbitrator accordingly finds that the first element is satisfied and that the disputed domain name is confusingly similar to the Complainant's registered trademark.

(ii) Rights or Legitimate Interests

As regards the second element, the Complainant must establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. With respect to this requirement, a complainant is generally required to make a prima facie case that a respondent lacks rights or legitimate interests and once such prima facie case is made, the burden of proof shifts to the respondent to come forward with evidence demonstrating rights or legitimate interests in the disputed domain name. Paragraph 6 of the Policy contains a non-exhaustive list of the circumstances which, if found by the Panel to be proved, shall demonstrate the respondent's rights or legitimate interests to the disputed domain name.

With regard to this element, there are several contentions made by Complainant that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, nor authorized by or connected with the

Complainant. The Respondent has not been granted any license or authorization by the Complainant to apply for registration of the disputed domain name. The Respondent has no due cause or realistic reason to register or use the disputed domain name and has only done so to create an impression of association/connection with the Complainant and to take advantage of its rights. Further, the disputed domain name resolved to a website which had a similar look and feel as the Complainant's website without displaying any disclaimer accurately or disclosing the website's relationship with the Complainant and promoted a purported "WhatsApp Business API" enabling, inter alia, bulk messaging via WhatsApp, obviously for commercial gain, cannot be considered as bona fide use as it was clearly attempting to trade off reputation and goodwill attached to the Complainant's WHATSAPP trademark and business. The Arbitrator accepts that it is very likely that the marketing software promoted on the Respondent's website may be used to send unsolicited electronic communication for phishing, or for other unauthorized activities and thus promoted activities that would place the security of Complainant's WhatsApp app at risk. None of this accrues any right on the Respondent and does not confer any legitimacy on it. It cannot be said that the disputed domain name is being used in relation to a bona fide offering of goods or services or that the Respondent is making legitimate or fair use of the disputed domain name. It has also been held that registration of a domain name does not give rise to a 'legitimate interest'.

Further, as the Respondent has not countered or objected to the Complainant's claim and has failed to come forward with any information that could support its rights or legitimate interests in the disputed domain name, the Complainant is deemed to have satisfied the second element. See Volkswagon AG v. Nowack Auto und Sport – Oliver Nowack WIPO Case No. D2015-0070 and OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org WIPO Case No. D2015-1149.

Accordingly, based on the undisputed contentions made by the Complainant, it has made a prima facie case with regard to the second element and the Arbitrator finds that the Respondent has no rights or legitimate interests in the disputed domain name.

(iii) Registered or Used in Bad Faith

As regards the third element of bad faith, based on the contentions of the Complainant describing its registrations for WHATSAPP and use of WhatsApp and associated business including "WhatsApp Business", the Arbitrator accepts that WHATSAPP is well-known and associated with the Complainant. Its rights far predate the registration of the disputed domain name by the Respondent. Therefore, it is the view of the Arbitrator that the Respondent was clearly aware of the Complainant's WHATSAPP mark and platform at the time of registration of the disputed domain name and has sought to create a misleading impression of association with the Complainant in its choice of the disputed domain name. This supports a finding of bad faith. See Starbucks Corporation, supra.

The Arbitrator accepts the Complainant's contention that the Respondent has intentionally attempted to attract Internet users to online locations by creating likelihood of confusion with the Complainant's WHATSAPP mark. Such users may end up looking for a website to which the disputed domain name resolved and believe that it is associated with or endorsed by the Complainant in some way. This will lead to an impression that the Respondent or the disputed domain name or any website corresponding to the same, even though the disputed domain name does not presently resolve to any website, are associated or affiliated with the Complainant. This cannot confer any legitimacy to the Respondent and is indicative of bad faith on part of the Respondent. Further, the Arbitrator accepts that the disputed domain name is not being used in relation to a bona fide offering of goods or services and the Respondent is not making legitimate or fair use of the disputed domain name. It is also settled that registration of an identical or confusingly similar domain name that is connected with another's goods or services that its use by someone with no connection to those goods or services constitutes bad faith. The Arbitrator also accepts that the Respondent has registered the disputed domain name (and the five others) to prevent the Complainant from owning the same and that there is no way in which the Respondent could use the disputed domain name without violating the Policy. The Arbitrator accepts that Respondent's organization appears to be a privacy service and this strongly suggests an attempt to shield illegitimate conduct from a legal proceeding and therefore constitutes additional evidence of bad faith at the time of registration of the disputed domain name by its underlying beneficial owner. Finally, the Arbitrator accepts that the Respondent's failure to reply to the Complainant's cease and desist letter also indicates bad faith.

Thus, the Arbitrator concludes that the Respondent's conduct constitutes bad faith registration or use of the disputed domain name within the meaning of the Policy.

Accordingly, the Arbitrator finds that the Complainant has established all three elements as required by the Policy.

9. Decision

For all the foregoing reasons, the Complaint is allowed and it is hereby ordered in accordance with paragraph 10 of the Policy that the disputed domain name be transferred to the Complainant. There is no order as to costs.

This award has been passed within the statutory deadline of 60 days from the date of commencement of arbitration proceeding.



Punita Bhargava (Ms.)

Sole Arbitrator

Date: December 27, 2022