

मध्य प्रदेश MADHYA PRADESH

CS 354976

BEFORE THE ARBITRATOR RAJESH BISARIA

UNDER THE

.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

[NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]

**ARBITRAL AWARD**

**Date-19.03.2025**

**Disputed Domain Name: whatsappplus.net.in**

**INDRP Case no -1913**

**THE PARTIES**

**(1)**

The Complainant is WhatsApp LLC, 1601 Willow Road, Menlo Park, California 94025, United States of America

The Respondent is GB Apps, Apps.Pk , District DG Khan Tehsil Taunsa Sharif , Taunsa Sharif, Punjab 32100 , Pakistan

**THE DOMAIN NAME AND REGISTRAR****(2)**(a) This dispute concerns the domain name : : **whatsappplus.net.in**

(b) The disputed domain name : **whatsappplus.net.in** is registered with Dynadot LLC (the Registrar) having address: P.O. Box 345 , San Mateo CA 94401 United States. Their Telephone number is +1 6502620100 and E mail ID: info@dynadot.com. This was registered on 01.09.2023.

**PROCEDURAL HISTORY****(3)**

The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure	20.01.2025
Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI.	20.01.2025
Due date of submission of Statement of Claim by Complainant (instructed by mail dated 20.01.2025)	31.01.2025
Complainant 's response by submitting their Statement of Claim to AT-	
Soft copy	21.01.2025
Hard copy	Not received
Complainant 's response by submitting their Statement of Claim along with all annexures to Respondent-	
<b>Soft copy</b> - The Complainant vide their mail dated 21.01.2025 intimated that- As per your trailing mail dated 21.01.2025, it is mentioned that ' they have received no bounce back messages from the email address 'gbapps.pk@gmail.com in' response to the sending of the attached emails'.	





<b>Hard copy</b> – Complainant vide their mail dated 11.02.2025 intimated that <i>-the hard copy of complaint along with annexures were sent to Respondent on 06.02.2025 on postal address, by Registered International Shipping-LAPOSTE, having document number RK670222725FR and attached the courier receipt. Thereafter by their mail dated 10.03.2025 Complainant intimated that- The registered post tracking service confirmed that the package was delivered on 24 February 2025 and attached screen captures of the tracking information shows that the hard copies have been delivered. After seeing the above attached tracking report, it was found that the Complaint along with annexures were delivered to Respondent on Monday 24.02.2025(23:14 Hrs) Metropolitan France time.</i>	24.02.2025
Due date of submission of Statement of Defense by Respondent as instructed by AT mail dated 20.01.2025 and as instructed by AT mail dated 14.02.2025	11.02.2025 24.02.2025
Respondent's response by submitting their Statement of Defense against the due date of submission as 11.02.2025 and thereafter 24.02.2025	Not submitted
Complainant's response by submitting their Rejoinder	Not required
The language of the proceedings	English

### FACTUAL BACKGROUND

#### (4) The Complainant:

The Complainant is WhatsApp LLC, 1601 Willow Road , Menlo Park, California 94025 , United States of America . Phone no. +33 1 53 67 47 47, Fax no. +33 1 53 67 47 48, E mail-domaindisputes@hoganlovells.com

**The Complainant's authorized representative in this administrative proceeding is:**

David Taylor / Jane Seager , address-Hogan Lovells (Paris) LLP , 17 avenue Matignon , 75008 Paris France, Phone: +33 1 53 67 47 47, Fax: +33 1 53 67 47 48, Email: domaindisputes@hoganlovells.com.

**The Complainant's preferred method of communication directed to the Complainant in this administrative proceeding is:**

Electronic-only material: Mail and Material including hardcopy: Post/Fax

**(5) The Respondent:**

The Respondent is GB Apps , Apps.Pk , District DG Khan Tehsil Taunsa Sharif , Taunsa Sharif, Punjab 32100 , Pakistan , Telephone: (+92).03437689677, E-mail: gbapps.pk@gmail.com, support@gbapps.com, business@gbapps.com , info@gbapps.com

**(6) Complainant's Activities:**

(a) The Complainant is a provider of one of the world's most popular mobile messaging applications (or "apps"). Founded in 2009 and acquired by Meta Platforms, Inc. (formerly known as Facebook, Inc.) (Meta) in 2014, WhatsApp allows users across the globe to exchange messages for free via smartphones, including iPhone and Android. The Complainant's main website available at [www.whatsapp.com](http://www.whatsapp.com) also allows Internet users to access its messaging platform. A screen capture of the Complainant's website homepage at [www.whatsapp.com](http://www.whatsapp.com) was submitted as Annexure 5.

(b) 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 as of 2023. WhatsApp has acquired considerable reputation and goodwill worldwide, including in Pakistan where the Respondent appears to be based. Consistently being ranked amongst Google Play and Apple iTunes 25 most popular free



mobile applications and Tech Radar's Best Android Apps, WhatsApp is the 4th most downloaded application for iOS phones worldwide. Copies of the Complainant's company information, its Wikipedia entry, press articles on Meta's acquisition of WhatsApp in 2014, WhatsApp's rankings and its rapid growth and international popularity were submitted as Annexure 6.

**(7) Complainant's Trade Marks and Domain Names:**

(a) Reflecting its global reach, the Complainant is the owner of numerous domain names, comprising its WHATSAPP trade mark, under various generic Top-Level Domains (**gTLDs**) as well as under many country code Top-Level Domains (**ccTLDs**). Copies of the Whois records for a selection of domain names comprising the Complainant's WHATSAPP trade mark were submitted as **Annexure 7**.

(b) The Complainant has also made substantial investments to develop a strong presence online by being active on various social-media forums. For instance, WhatsApp's official page on Facebook has over 35 million "likes". In addition, WhatsApp has 5.5 million followers on X (formerly Twitter). These pages are available at the following URLs:

<https://www.facebook.com/WhatsApp/>

<https://x.com/WhatsApp>

<http://www.youtube.com/whatsapp>

<https://www.linkedin.com/company/whatsapp-inc/about/>



Screen captures of the Complainant's social-media pages were submitted and available at **Annexure 8**.

(c) The Complainant owns numerous trade mark registrations in the term WHATSAPP in many jurisdictions throughout the world. Such trade mark registrations include but are not limited to the following:

- United States Trademark Registration No. 3939463, WHATSAPP, registered on 5 April 2011;

- European Union Trade Mark No. 009986514, WHATSAPP, registered on 25 October 2011;
- International Trademark No. 1085539, WHATSAPP, registered on 24 May 2011;
- Indian Trademark Registration No. 2149059, WHATSAPP, registered on 24 May 2011; and
- Pakistani Trademark Registration No. 302143, WHATSAPP, registered on 27 May 2011.

(d) The Complainant has also secured ownership of the following figurative trade marks:

- European Union Trade Mark No. 010496602, , registered on 18 May 2012; and
- Indian Trademark Registration No. 2344423, , registered on 7 June 2012.

Copies of these trade mark registrations were submitted as **Annexure 9**.

(e) The Complainant was recently made aware of the Domain Name, comprising its WHATSAPP trade mark followed by the term "plus" under the domain extension ".net.in", registered on 1 September 2023.

(f) The Domain Name resolves to a website titled "WhatsApp plus / WhatsApp Plus APK v17.76 Download (Official) Latest Version 2024" that purports to offer for download an unauthorized modified APK version of the Complainant's WhatsApp application, referred to as "WhatsApp Plus" (the **Respondent's website**).

(g) The Respondent's website features a table comparing the differences between the functionality of the Complainant's WhatsApp application and that of the modified APK version of the application, as well as the following text:

"It [WhatsApp Plus] seamlessly integrates the core WhatsApp features with an array of enhanced tools, including augmented



privacy settings, customization capabilities, a library of pre-existing themes, and an enriched user interface."

Screen captures of the Respondent's website were submitted as Annexure10.

(h) The Respondent's website features a modified version of the Complainant's WhatsApp figurative telephone trade mark and logo and a favicon that is very similar to the Complainant's WhatsApp figurative telephone trade mark, as follows:

**Complainant's figurative trade mark and logo**



**Images and favicon on the Respondent's website**



WhatsApp Plus APK v17.76 Do X

(i) The Respondent's website features detailed step-by-step instructions on how to install the modified version of WhatsApp on a mobile phone. The website features the following wording in small font in the footer:

"WhatsApp Plus is a Instant Messaging App for Android. Download WhatsApp Plus APK 2023 Latest Version. Get Full Advantage of WA+ with a Lot of Features."

(j) The Respondent's website features the following wording in the FAQ section at the bottom of the website:

**"Is WA Plus an official product of the WhatsApp company?"**

No, it is a distinct app crafted by independent coders, without affiliation to the original WhatsApp brand."

(k) On 28 June 2024, in an attempt to resolve the matter amicably, the Complainant's lawyers submitted the Registrar registrant contact form

notice. No response was received. Screen captures of the Registrar registrant contact form notice were submitted as Annexure 11.

(l) The Respondent was named as the respondent in the following cases, in each of which the relevant Panel ordered the transfer of the disputed domain name to the complainant, being either the Complainant or the Complainant's related company, Instagram LLC:

- *WhatsApp LLC v GB Apps*, [.PK Case Number C2024-0004](#) (<whatsappgb.pk>);
- *WhatsApp LLC v. Apps.Pk*, [WIPO Case No. D2024-2487](#) (<gbwhatsapppro.app>).
- *WhatsApp LLC v GB Apps, Apps.Pk*, [WIPO Case No. DC02024-0043](#) (<gbwhatsapp.net.co>);
- *Instagram LLC v GB Apps*, [INDRP Case No. 1889](#) (<instapro.ind.in>);
- *Instagram LLC v GB APPS*, [INDRP Case No. 1890](#) (<instapro.com.in>); and
- *WhatsApp LLC v GB Apps*, [.PK Case Number 2024-0008](#) (<gbwhatsappdownloads.pk>).

A copy of the decision *WhatsApp LLC v GB Apps*, .PK Case Number 2024-0008 was submitted as **Annexure 12** as it is not yet available on the DNDRC website.

(m) The Complainant submits the present Complaint requesting transfer of the Domain Name under the .IN Policy to protect its rights and legitimate business interests.

**(8) Respondent's Identity and activities:**

Respondent failed to submit required documents, so his identity and activities are not clear.



**(10) Rejoinder by Complainant:**

Since the Respondent failed to submit their reply to the Complaint of Complainant, so Rejoinder was not required to be submitted by Complainant.

**(11) Submissions of Documents by Complainant:**

Complainant submitted Domain name complaint with pages 1 to 15 (words 5900) and annexure from 1 to 15 with pages 1 to 93.

As per the INDRP Rules of Procedure, Clause 4(a) –

*The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The Complainant submitted pleadings of 5900 words and annexures of 93 pages. The pleading is more than the above norms of the INDRP Rules of Procedure but the annexures are within limit of 100 pages, which is acceptable in the interest of justice, with the instruction to Complainant to restrict themselves in submitting the pleadings within above said norms of 5000 words in future.

**OTHER LEGAL PROCEEDINGS:**

**(12) Submission of Complainant**

As required under paragraph 4(b) (viii) of the Rules, the Complainant submits that the Complainant is not aware of any other legal proceedings that have been commenced in respect of the Domain Name.

**REMEDY SOUGHT:**

**(13) Submission of Complainant**

- (a) In accordance with Paragraph 10 of the .IN Policy, Paragraph 3(b) (vii) of the .IN Rules, for the reasons detailed in Section IV above, the Complainant requests that the Arbitrator appointed in this administrative proceeding transfer the Domain Name to the Complainant.
- (b) The Complainant further requests that the appointed Arbitrator award the Complainant costs as deemed fit by the Arbitrator.

**THE CONTENTIONS OF COMPLAINANT**

**(14) The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights:**

**Submission by Complainant**

- (a) The Complainant submits that it has established rights in the trade mark WHATSAPP for purposes of paragraph 4(a) of the .IN Policy (submitted Annexure 9).
- (b) The Domain Name incorporates the Complainant's WHATSAPP trade mark followed by the term "plus", under the domain extension ".net.in".
- (c) The Complainant submits that the addition of the term "plus" does not prevent a finding of confusing similarity with the Complainant's WHATSAPP trade mark, which remains clearly recognizable in the Domain Name. See WIPO Overview 3.0, section 1.8.  
See also WhatsApp, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Mohammed Alkalbani, Ops Alkalbani, M. Rashid Alkalbani, WIPO Case No. D2016 2299 (<whatsapp plus.info> et al.):

"The addition of the above indicated generic terms, i.e., 'plus', 'download' etc., does not diminish the confusing similarity with the Complainant's trademark."



See also Meta Platforms, Inc. and Meta Platforms Technologies, LLC v. hao su, WIPO Case No. D2022 4574 (<metaquestplus.com> et al.).

- (d) With regard to the ".net.in" domain extension, it is well established under the .IN Policy that such domain extension may be disregarded when assessing whether a domain name is identical or confusingly similar to a complainant's trade mark. See in this regard Google LLC v Hom Kit Bk Picture, INDRP/1814 (<simsim.net.in>).
- (e) The Complainant therefore submits that the Domain Name is confusingly similar to the Complainant's trade mark in accordance with paragraph 4(a) of the .IN Policy.

**(15) The Respondent has no rights or legitimate interests in respect of the domain name:**

**Submission by Complainant**

- (a) The Complainant submits that the Respondent has no rights or legitimate interests in the Domain Name.
- (b) Prior panels have found under the .IN Policy that "where a complainant makes out a prima facie case that a 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." See Instagram LLC v. Ding RiGuo., INDRP/1183 (<instagram.in>), a copy of which was submitted and provided in Annexure 13.
- (c) The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in Paragraph 6 of the .IN Policy to demonstrate rights or legitimate interests in the Domain Name.
- (d) The Respondent cannot assert that, prior to any notice of this dispute, it was using, or had made demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services in accordance with paragraph 6(a) of the .IN Policy.

- (e) The Complainant has not authorised, licensed or otherwise allowed the Respondent to make any use of its WHATSAPP trade mark, in a domain name or otherwise. Prior panels have held that the lack of such prior authorisation would be sufficient to establish a prima facie case regarding the respondent's lack of rights or legitimate interests in the disputed domain name. See 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").
- (f) As detailed above, the Respondent's website purports to offer for download an unauthorized modified APK version of the WhatsApp application, which purports to provide WhatsApp "users [with] a wide range of enhanced features, privacy options and customization possibilities", including the ability to "hide last seen status, blue ticks, and typing indicators".
- (g) Prior panels have recognized that service providers using a domain name containing a third party trade mark may be making a bona fide offering of goods or services and thus have a legitimate interest in such domain name. Whether or not this is the case is typically measured against the list of factors set out in Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001 0903 (the Oki Data criteria):
- (i) the respondent must actually be offering the goods or services at issue;
  - (ii) the respondent must use the site to sell only the trade marked goods or services;
  - (iii) the site must accurately and prominently disclose the registrant's relationship with the trade mark holder; and
  - (iv) the respondent must not try to "corner the market" in a domain name that reflects the trade mark.
- See also WIPO Overview 3.0, section 2.8.
- (h) The Complainant submits that the Respondent cannot be viewed as a bona fide service provider as it does not provide sales or repairs in relation to a product provided by the Complainant. Rather, the Respondent is making



unauthorized use of the Complainant's trade mark to market its own ancillary services as detailed above.

(i) Nevertheless, even if one is to apply the Oki Data criteria, the Respondent fails to fulfil the first, third and fourth criteria, namely that:

(1) The Respondent's website purports to offer for download a third-party unauthorized APK version of the WhatsApp application. As such, the Respondent cannot be said to be using the Respondent's website to offer the goods or services at issue, namely the Complainant's WhatsApp application.

(2) The Respondent's website fails to accurately and prominently disclose its lack of relationship with the Complainant. The wording "it [WhatsApp Plus] is a distinct app crafted by independent coders, without affiliation to the original WhatsApp brand" in the FAQ section at the bottom of the Respondent's website constitutes neither an accurate nor a prominent disclaimer as to the lack of relationship with the Complainant. Rather, the Respondent's website displays repeated references to the Complainant's WHATSAPP trade mark, together with a modified version of the Complainant's figurative WhatsApp telephone trade mark and logo as a logo and a favicon (referred Annexure 5 and Annexure 10). The Respondent's website is therefore likely to mislead Internet users into believing that it is operated or authorized by the Complainant, which it is not. See in this regard WhatsApp LLC v. Registration Private, Domains By Proxy, LLC / Muhammad Asif, supra.

(3) The Complainant submits that the Respondent's registration of several domain names comprising the Complainant's WHATSAPP trade mark, as well as several domain names comprising the INSTAGRAM and INSTA trademarks of the Complainant's related company, Instagram LLC, alongside various descriptive terms as detailed above establishes a pattern of registration of domain names comprising these trademarks

and even constitutes an attempt to "corner the market" in such domain names.

- (j) The WhatsApp Terms of Service, available at [https://whatsapp.com/legal/terms of service](https://whatsapp.com/legal/terms%20of%20service), provide as follows:

"Acceptable Use Of Our Services

[...]

Harm To WhatsApp Or Our Users. You must not (or assist others to) directly, indirectly, through automated or other means, access, use, copy, adapt, modify, prepare derivative works based upon, [...] perform, or otherwise exploit our Services in impermissible or unauthorized manners, or in ways that burden, impair, or harm us, our Services, systems, our users, or others, including that you must not directly or through automated means: (a) reverse engineer, alter, modify, create derivative works from, decompile, or extract code from our Services[...]."

A copy of the WhatsApp Terms of Service was submitted and provided as Annexure 15.

- (k) The Complainant is committed to maintaining the integrity of its WhatsApp service and does not support such third party applications. The use of the Domain Name to offer for download an unauthorized modified APK version of the WhatsApp application impairs the integrity of the WhatsApp service, breaches the WhatsApp Terms of Service and cannot be considered a bona fide offering of goods or services; see WhatsApp, Inc. v. Nasser Bahaj, WIPO Case No. D2016 0581 (<ogwhatsapp.org> et al.):

"The Complainant has indicated that it has never authorized the use of its trademark by the Respondent. The Respondent is not making a bona fide offering of goods or services via the disputed domain names but is rather offering unauthorized and unlicensed versions of the Complainant's application."

See also WhatsApp, Inc. v. Abdallah Almqbali, WIPO Case No. D2016 1287 (<watsabsplus.com> et al.).

- (l) Furthermore, the WhatsApp Brand Guidelines, available at <https://about.meta.com/brand/resources/whatsapp/whatsapp-brand>, prohibit



the registration of domain names that comprise any WhatsApp trade mark and could be confused with WhatsApp, as follows:

"General Guidelines

Do not use other trademarks, names, domain names, logos, or other content that could be confused with WhatsApp.

[...]

Can I use WhatsApp in my domain name or online username?

You may not use any WhatsApp trademarks, or anything similar, in your trademark, domain name, username, or other account name.

[...]

Prohibited Uses

Don't use the WhatsApp trademark, or anything similar, as, or as part of, a second level domain name or platform username."

- (m) The Domain Name, which comprises the Complainant's WHATSAPP trade mark, violates the WhatsApp Brand Guidelines. In light of the nature of the Domain Name and its use, to resolve to a website that features the Complainant's WHATSAPP trade mark and a modified version of its logo and figurative trade mark to promote the downloading of an unauthorized modified version of the Complainant's WhatsApp application (referred Annexure 10), the Complainant submits that there is a risk of implied affiliation with the Complainant. Prior UDRP panels have found that the use of modified versions of the WhatsApp telephone logo contributes to a risk of confusion and implied affiliation with the Complainant, and does not constitute bona fide use.
- (n) As a result, the Complainant submits that the Respondent's use of the Domain Name does not amount to a bona fide offering of goods or services within the meaning of paragraph 6(a) of the Policy.
- (o) The Respondent cannot legitimately claim that it is commonly known by the Domain Name in accordance with paragraph 6(b) of the .IN Policy.
- (p) Neither the Respondent's name "GB Apps", nor the organization name "Apps.Pk" bears any resemblance to the Domain Name. To the best of the Complainant's knowledge, the Respondent has not secured or sought to secure any trade mark rights in the term "whatsapp" or "whatsappplus".

- (q) The Respondent's use of the Domain Name, to purport to offer for download an unauthorised APK application that seeks to trade off the goodwill and reputation associated with the Complainant's WHATSAPP trade mark, in breach of the WhatsApp Terms of Service, does not support any reasonable claim of being commonly known by the Domain Name, nor does it give rise to any reputation in the Domain Name itself, independent of the Complainant's trade mark rights.
- (r) The Respondent's use of the Domain Name to purport to offer for download an unauthorized modified APK version of the Complainant's WhatsApp application does not amount to legitimate non-commercial or fair use. Nor can the provision of services that breach of the WhatsApp Terms of Service give rise to rights or legitimate interests in the Domain Name. See WhatsApp LLC v. Furqan Taunsvi, Buch Executive Villas, WIPO Case No. DCC2024-0012 (<gbwhatsapps.cc> et al.):

"The composition of the disputed domain names, the content of the website to which they redirect, displaying the Complainant's trademark, logo, and color scheme, combine to create a risk of implied affiliation with the Complainant and/or endorsement by the trademark owner, which cannot be considered fair use."

See also Lemon Inc. v. saleem abbas, WIPO Case No. D2023 4066 (<ressomodapk.com>):

"[...] the Respondent uses the Website to offer information and guidance relating to a modified version of the Complainant's Resso app. Said use of the Domain Name further supports the risk of implied affiliation of the Domain Name with the Complainant and thus, cannot be considered to confer rights or legitimate interests of the Respondent. This impression is further strengthened by the fact that the Respondent prominently and frequently displays the Complainant's RESSO Trademark on the Website. Hence, the Respondent's use cannot be considered a legitimate noncommercial or fair use of the Domain Name".

- (s) Moreover, in light of the nature of the Domain Name, comprising the Complainant's WHATSAPP trade mark, followed by the term "plus" as



detailed above, the Complainant submits that the Domain Name carries with it an implied risk of affiliation with the Complainant, which cannot constitute fair use; see WIPO Overview 3.0, section 2.5.1.

- (t) The Complainant therefore asserts that the Respondent has no rights or legitimate interests in the Domain Name, in accordance with paragraph 4(b) of the .IN Policy.
- (u) For the foregoing reasons, the Complainant submits that it has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. Accordingly, the burden of production shifts to the Respondent to produce evidence to rebut the Complainant's case; see paragraph 6 of the Policy and WIPO Overview 3.0, section 2.1. In the absence of such evidence, the Complainant may be deemed to have satisfied the requirements of paragraph 4(b) of the Policy.

**(16) The domain name was registered and is being used in bad faith:**

**Submission by Complainant-**

- (a) The Complainant asserts that the Domain Name was registered and is being used in bad faith although the .IN Policy only requires that a complainant demonstrate that the disputed domain name was registered or is being used in bad faith.
- (b) Paragraph 7 of the .IN Policy lists three circumstances which, in particular but without limitation, may be evidence of registration and use of a domain name in bad faith for the purposes of paragraph 4(c) of the .IN Policy.
- (c) It is submitted that paragraph 7(c) of the .IN Policy is of particular relevance in the present case, although there are other factors not listed in paragraph 7 that indicate the Respondent's bad faith.
- (d) The Complainant's WHATSAPP trade mark 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 (referred Annexure 6).

(e) All search results obtained by typing "whatsapp" into the Google search engine at [www.google.com](http://www.google.com) refer to the Complainant.

A copy of the Google search results for "whatsapp" was submitted as Annexure 15.

(f) Given the Complainant's renown and goodwill worldwide and its trade mark rights established long before the registration of the Domain Name, it would be inconceivable for the Respondent to argue that it did not have knowledge of the Complainant's WHATSAPP trade mark when it registered the Domain Name in September 2023. See in this regard WhatsApp Inc. v. Warrick Mulder, INDRP/1233 (<whatsapp.in>), registered in 2013:

"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'."

See also WhatsApp, Inc. v. Domain Manager et al., WIPO Case No. D2018 1581 (<whatsappalertas.com> et al.):

"Taking into consideration that [...] Complainant's trademark WHATSAPP has become well known around the world, and that Complainant's trademark is composed of a coined term that confers to it certain distinctiveness, this Panel is of the view that Respondents must have been aware of the existence of Complainant's trademark WHATSAPP at the time of registration of each disputed domain name [between April 2014 and April 2017]."

(g) In light of the nature of the Respondent's website, which makes prominent reference to the Complainant and its WHATSAPP trade mark and features a modified version of the Complainant's WhatsApp logo and figurative trade mark as detailed above, the Complainant infers that the Respondent had actual knowledge of the Complainant and its trade mark when it registered the Domain Name. See in this regard Lemon Inc. v. saleem abbas, supra:

"Moreover, the Website to which the Domain Name resolves offers information about a modified version of the Resso app for



download, that all clearly relate to and/or imitate the products and services that are being offered by the Complainant under the RESSO Trademark. In light of the aforementioned, as well as the use of the RESSO logo, the Panel finds that the Respondent must have been aware of the existence of the Complainant's activities and rights at the time that the Respondent registered the Domain Name."

(h) Moreover, as detailed above, the Respondent was named as the respondent in various domain name dispute resolution cases in relation to each of the domain names <whatsappgb.pk>, <gbwhatsapppro.app>, <gbwhatsapp.net.co>, <instapro.ind.in>, <instapro.com.in> and <gbwhatsappdownloads.pk>, in each of which the relevant Panel ordered transfer of the disputed domain name. The Complainant submits that the Respondent has engaged in a pattern of trade mark abusive registration targeting the Complainant and its related company, Instagram LLC, which amounts to further evidence of the Respondent's bad faith.

(i) The Complainant therefore submits that the Respondent registered the Domain Name with full knowledge of the Complainant's rights. Prior panels have held that actual knowledge of a well known trade mark at the time of registration of a domain name constitutes evidence of bad faith. See QRG Enterprises Limited & Havells India Limited v. Zhang Mi, INDRP/852 (<qrg.co.in>):

"Such registration of a domain name based on awareness of a trade mark is indicative of bad faith registration under the Policy."

(j) The Complainant further submits that the Respondent registered the Domain Name in September 2023, not only with full knowledge of the Complainant's rights, but also with the intent to attract Internet users to the Respondent's website for the promotion of an unauthorized version of the Complainant's WhatsApp application, in bad faith in accordance with paragraph 4(c) of the Policy.

- (k) As detailed above, the Respondent's website purports to offer for download an unauthorized modified APK version of the Complainant's WhatsApp application, developed by a third party, in breach of the WhatsApp Terms of Service.
- (l) The Respondent's website features repeated references to the Complainant and its official website and application, as well as a modified version of the Complainant's figurative trade mark and telephone logo, including as a favicon. In the absence of any clear and prominent disclaimer regarding the relationship with the Complainant, Internet users are likely to be misled into believing that the Respondent's website is somehow affiliated with or endorsed by the Complainant, which it is not. See in this regard WhatsApp Inc. v. Edwin Lizcano, Inversiones Capira SAS, WIPO Case No. D2019 1700 (<maswhatsapp.com>):

"Other factors corroborate a finding of bad faith:

- a. the use of the Complainant's distinctive green-and-white color scheme, as well as a modified version of the Complainant's logo at the webpage that resolves from the disputed domain name without a single disclaimer or indication that the Respondent's website is not operated by or affiliated with the Complainant, thus creating a misleading impression of association with the Complainant [...]."

- (m) However, even if an accurate and prominent disclaimer were featured on the Respondent's website, it would not have been sufficient to cure the Respondent's illegitimate use of the Domain Name; see WhatsApp Inc. v. Vipul Singh, WIPO Case No.2020 0903 (<whatsapp quotes.com>).

- (n) As a result, the Complainant submits that through the Respondent's use of the Domain Name, it has intentionally attempted to attract Internet users to online locations by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the website, in accordance with paragraph 7(c) of the .IN Policy.



See in this regard Amazon Technologies Inc. v Mr. Alex Parker, INDRP/1166 (<amazonemi.in>):

"The Respondent's registration of the domain name <amazonemi.in> is likely to cause immense confusion and deception and lead the general public into believing that the said domain name enjoys endorsement or authorized by or is in association with and/or originates from the Complainant.

The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith."

(o) Furthermore, although commerciality is not expressly required under paragraph 7(c) of the .IN Policy, the Complainant submits that it is very likely that the Respondent or the owner of the third party WhatsApp APK application ultimately derives commercial advantage from the Respondent's unauthorized use of the Complainant's WHATSAPP trade mark in the Domain Name and on the Respondent's website, as well as the use of a modified version of the Complainant's logo and figurative trade mark on the Respondent's website, both as a logo and as a favicon. Prior UDRP panels have held that commercial gain may include the respondent gaining or seeking reputational and/or bargaining advantage, even where such advantage may not be readily quantified; see WIPO Overview 3.0, section 2.5.3.

(p) In addition, the APK version of the WhatsApp application may disrupt the Complainant's business by driving users to third-party applications. Prior UDRP panels have held that such activities amount to use of a domain name in bad faith; see WhatsApp LLC v. Du chengfu, WIPO Case No. DBZ2024 0001 (<gbwhatsapp.com.bz>):

"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".

- (q) Finally, the Respondent's failure to respond to the Complainant's lawyers' Registrar registrant contact form notice is further evidence of the Respondent's bad faith. See in this regard WhatsApp Inc. v Warrick Mulder, INDRP/1233 (<whatsapp.in>).
- (r) In view of the above, the Complainant asserts that the Domain Name was registered and is being used in bad faith in accordance with Paragraph 4(c) of the .IN Policy.

### **DISCUSSION AND FINDINGS**

- (17) After going through the correspondence, this AT comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant.
- (18) Respondent was given enough opportunity to submit Reply of Complaint (Statement of Defense) by 11.02.2025 and thereafter by 24.02.2025. But Respondent failed to submit the same within said time limit; therefore, the Respondent had lost their right to entertain it. The proceeding of this case was kept closed for award on 27.02.2025 and the matter is to be decided ex-parte on the basis of the document on record with this tribunal as per INDRP policy.
- (19) Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant has filed a complaint to .IN Registry on the following premises:
- (a) the Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights; and
  - (b) the Registrant's has no rights or legitimate interest in respect of the domain name; and
  - (c) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose.



- (20) The Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights:**

**Facts & Findings**

On the basis of the referred Awards of NIXI and WIPO cases, above mentioned facts by Complainant, and due to non-submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established 4(a) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (21) The Registrant's has no rights or legitimate interest in respect of the domain name:**

**Facts & Findings**

On the basis of the referred Award of NIXI and WIPO cases, above mentioned facts by Complainant and due to non-submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(b) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (22) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose:**

**Facts & Findings**

On the basis of referred Awards of NIXI and WIPO cases, above mentioned facts by Complainant and due to non-submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(c) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

(23) **ARBITRAL AWARD**

I, **Rajesh Bisaria**, Arbitrator, after examining and considering the pleadings and documentary evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 5, 17 and 18 of the INDRP Rules of Procedure and Clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP), as follows:

***Arbitral Tribunal orders that the disputed domain name "whatsappplus.net.in"***


***be forthwith TRANSFERRED from Respondent to Complainant.***

***Further AT takes an adverse view on the bad faith registration of impugned domain by the Respondent and to restrict the act for future misuse, fine of Rs 10000/- (Rs Ten thousand only) is being imposed on the Respondent, as per the provision in clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP) to be paid to .IN Registry for putting the administration unnecessary work.***

AT has made and signed this Award at Bhopal (India) on 19.03.2025 (Nineteenth Day of March, Two Thousand Twenty-Five).

**Place: Bhopal (India)**

**Date: 19.03.2025**

  
**(RAJESH BISARIA)**  
Arbitrator

