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NON JUDICIAL

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കേരള സർക്കാർ  
GOVERNMENT OF KERALA  
e-Stamp

e-Stamp Serial Number : 202425000002331696

Verification Code : 321243760V

Govt. Reference No.(GRN)	: KL040914441202425E
Purpose	: Bond
Amount of Stamp Paper Purchased in Numeral	: ₹ 100
Amount of Stamp Paper Purchased in Words	: Rupees One Hundred
Stamp Paper Purchased on	: 17/03/2025
First Party Name	: Adv SUNIL V MOHAMED
First Party Address	: Arbitrator, NIXI.
Second Party Name	: NIXI
Second Party Address	: Delhi
Vendor Code & Name	: 11112474 - JAYADEVI P B
Treasury Code & Name	: 1111 - STAMP DEPOT, Eranakulam

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BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

Adv. SUNIL V. MOHAMMED BA., LL.B.  
(Sole Arbitrator)

AWARD

Dated 17<sup>th</sup> March, 2025

Venue: New Delhi, India



This can be verified by  
[https://www.estamp.treasury.kerala.gov.in/index.php/estamp\\_search](https://www.estamp.treasury.kerala.gov.in/index.php/estamp_search) using e-Stamp  
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JAYADEVI. P. B.  
District Court Vendor  
Ernakulam

**In the matter of Arbitration under the .In Domain Name Dispute  
Resolution Policy; the INDRP Rules and Procedure and  
the Arbitration and Conciliation Act, 1996**

**INDRP CASE No. 1904**

**Between**

**Complainant**

WhatsApp LLC  
1601 Willow Road  
Menlo Park, California 94025  
United States of America.

**And**

**Respondent**

GB Apps  
Apps.PK  
District DG Khan,  
Tehsil Taunsa Sharif, Taunsa Sharif,  
Punjab 32100, Pakistan.

**Disputed Domain Name** : *"downloadgbwhatsapp.net.in"*  
**Seat of Arbitration** : Office of the NIXI at Delhi, India.  
**Date of commencement  
of Arbitration Proceeding** : 17<sup>th</sup> January, 2025



## 1. The Parties to the Arbitration:

1.1 The Complainant in the Arbitration Proceedings is **WhatsApp LLC**, an American Company with its principal place of business at 1601 Willow Road, Menlo Park, California, 94025, United States of America (e-mail: domaindisputes@hoganlovells.com). The Complainant is represented in these proceedings by its authorized representatives Jane Seager/David Taylor, Hogan Lovells (Paris) LLP, 17 Avenue Matigon 75008, Paris, France through **Annex 3** Power of Attorney.

1.2 The Respondent in the proceedings is **GB Apps Apps.PK**, District DG Khan, Tehsil Taunsa Sharif, Taunsa Sharif, Punjab 32100, Pakistan (e-mail: gbapps.pk@gmail.com, support@gbapp.com.pk), as per the contact details publically available in **Annex 4** WHOIS record provided by the National Internet Exchange of India (hereinafter referred to as **NIXI**) to the Complainant.

## 2. Applicable Law and Jurisdiction:

2.1 The present Dispute Resolution Process is in accordance with Policy No. 5 of the .IN Domain Name Dispute Resolution Policy (hereinafter referred to as the **.IN Policy**) and .IN Domain Name Dispute Resolution Rules of Procedure (hereinafter referred to as the **INDRP Rules of Procedure**), based on the Arbitration and Conciliation Act, 1996 as amended from time to time, adopted by the NIXI and sets forth the legal framework for resolution of disputes between a Domain Name Registrant and a Complainant arising out of the registration and use of an .IN Domain Name.

2.2 By registering the disputed Domain Name with the NIXI accredited Registrar, the Respondent has agreed to the resolution of disputes under the Policy and Rules framed thereunder (See Policy No. 15 and 16 of the .IN Policy and Rule 13 (a) INDRP Rules of Procedure).

## 3. The Domain Name and Registrar:

3.1 The disputed Domain Name is "**downloadgbwhatsapp.net.in**", which is registered on 11.09.2023 with Dynadot LLC, by the Respondent registrant.



3.2 The particulars of the registration of Domain Name as found in the .IN Registry database are as follows:

DNS Form	downloadgbwhatsapp.net.in
User Form	downloadgbwhatsapp.net.in
ROID	D6A930F046B5847E18CFB42E196BACDC7-IN
Registrar Name	Dynadot LLC
IANA ID	472
Create Date	2023-09-11T14:19:15Z
Expiry Date	2025-09-11T14:19:15Z
Last updated Date	2024-09-30T14:53:34Z
EPP Status	serverRenewProhibited serverUpdateProhibited  clientTransferProhibited  serverTransferProhibited serverDeleteProhibited
Domain State	Registered
Assigned Nameservers	rosemary.ns.cloudflare.com tadeo.ns.cloudflare.com
Registrant Client ID	C-937274
Registrant ROID	CC3949D9E7FF34E348744355DF5017B04-IN
Registrant Create Date	2023-03-20T13:44:51Z
Email	gbapps.pk@gmail.com
Phone	(92).03437689677
International Postal Name	GB Apps
International Postal Organisation	Apps.Pk
International Postal Street Line 1	District DG Khan Tehsil Taunsa sharif
International Postal City	Taunsa Sharif
International Postal State	Punjab
International Postal Postcode/ Zip Code	32100
International Postal Country	PK
Local Postal Country	
Registrant Registrar Name	Dynadot LLC
Registrant Registrar IANA ID	472
Registrant Admin ID	CC3949D9E7FF34E348744355DF5017B04-IN
Admin Name:	GB Apps
Admin Organization:	Apps.Pk
Admin Street:	District DG Khan Tehsil Taunsa sharif
Admin City:	Taunsa Sharif
Admin State/Province:	Punjab
Admin Postal Code:	32100
Admin Country:	Pakistan (pk)
Admin Phone:	(92).03437689677
Admin Email:	gbapps.pk@gmail.com4.



#### 4. Procedural History

4.1 The Sole Arbitrator, Adv. Sunil V. Mohammed was appointed on 14<sup>th</sup> January, 2025, in the above INDRP case to resolve the domain dispute raised in the Complaint dated 20<sup>th</sup> November, 2024, in accordance with Rule 2(a) and 4(a) of the INDRP Rules of Procedure.

4.2 After obtaining the Statement of Acceptance and Declaration of Impartiality of Independence of the Sole Arbitrator, the NIXI has forwarded the amended complaint along with Annexs 1 to 16 and also the WHOIS details of the domain through e-mail dated 14<sup>th</sup> January, 2025.

4.3 On 17<sup>th</sup> January, 2025, the Tribunal issued Notice under Rule 5(c) of the INDRP Rules of Procedure to the Respondent through e-mail and the Complainant was directed to serve copies of the domain complaint along with complete set of documents in soft copies as well as in physical via courier or post to the Respondent registrant at the address provided in the WHOIS details of the domain, in compliance of Rule 2 and 3(d) of the INDRP Rules of Procedure and to furnish proof of such service and delivery. In the said Notice, the Respondent was directed to file Reply to the Domain Complaint within 15 days.

4.4 The Complainant forwarded the soft copies of the Complaint and Annexs to the known e-mail ID's of the Respondent viz., *gbapps.pk@gmail.com* and *support@gbapp.com.pk*. The Notice above as well as the Complaint and Annexs forwarded to the Respondent's e-mail ID *gbapps.pk@gmail.com* have been delivered. But delivery to the e-mail ID *support@gbapp.com.pk* was reported incomplete and failed. The Complainant as per e-mail dated 23<sup>rd</sup> January, 2025 has informed the Tribunal that bounce back messages have been received from one of the e-mails of the Respondent, though it was resent on several occasions. Moreover, the Complainant has also requested to waive the condition of hardcopy service on the Respondent pointing out that the postal address of the Respondent appears to be incomplete and that eventhough hardcopy of the documents are to be served under Rule 3(d) of the INDRP Rules of Procedure, it is very difficult to send large quantities of paper documents via postal service especially since delivery cannot be ensured in the right address as the Respondent's address available is incomplete. Accordingly, the Tribunal vide e-mail dated 3<sup>rd</sup> February, 2025 waived the serving of



hardcopies on the Respondent and the service of the Complaint and Annexs was declared complete in view of the delivery effected to the Respondent's e-mail *gbapps.pk@gmail.com* under Rule 2(d) (iii) of the INDRP Rules of Procedure.

4.5 Since the Respondent failed to submit reply/response to the Domain Complaint within the time limit as mandated in the Notice dated 17<sup>th</sup> January, 2025 of the Tribunal and as the said time period had expired on 1<sup>st</sup> February, 2025, the Tribunal as per e-mail dated 3<sup>rd</sup> February, 2025 granted the Respondent with another opportunity under Rule 13 of the INDRP Rules of Procedure to submit reply to the domain complaint within a further period of 10 days. But the Respondent did not submit any reply/response and the said time period had also expired on 13<sup>th</sup> February, 2025.

4.6 Accordingly, as per e-mail dated 17<sup>th</sup> February, 2025, the Tribunal set the Respondent *ex-parte* and decided to proceed under Rule 17 of the INDRP Rules of Procedure.

## 5. Grounds urged for the Administrative Proceedings:

5.1 The disputed domain name is confusingly similar to Complainant's.

5.2 The Registrant has no rights or legitimate interests in respect of the domain name.

5.3 The Registrant's domain name has been registered or is being used in bad faith.

## 6. Complainant's Contentions:

6.1 The Complainant **WhatsApp LLC** is provider of 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, the application **WhatsApp** allows users across the globe to exchange messages for free via smart phones, including iPhone and Android. To substantiate the above facts, the Complainant produced **Annex 2** copy of Certificate of conversion of a Corporation to an LLC changing the Complainant's name from 'WhatsApp Inc' to 'WhatsApp LLC'. The Complainant would further content that its main website available at *www.whatsapp.com*, the screen capture of the website homepage of which is produced as **Annex 5**, allows Internet users to access its messaging platform.



6.2 According to the Complainant, '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 and it 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 4<sup>th</sup> most downloaded application for iOS phones worldwide. In support of that, the Complainant relies on **Annex 6** copy of the 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 worldwide.

6.3 Reflecting its global reach, the Complainant would point out that it 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). In order to establish it, the Complainant produced **Annex 7** copy of the WHOIS record for a selection of domain names comprising its WHATSAPP trade mark.

6.4 It is contended further that 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/>*

The Complainant produced **Annex 8** screen capture of its social media pages in support of the above contention.

6.5 The Complainant would content that it owns numerous trademark registrations in the term WHATSAPP in many jurisdictions throughout the world, which are as follows:



- i) United States Trademark Registration No. 3939463, WHATSAPP, registered on 5 April 2011;
- ii) European Union Trade Mark No. 009986514, WHATSAPP, registered on 25 October 2011;
- iii) International Trademark No. 1085539, WHATSAPP, registered on 24 May 2011;
- iv) Indian Trademark Registration No. 2149059, WHATSAPP, registered on 24 May 2011; and,
- v) Pakistani Trademark Registration No. 302143, WHATSAPP, registered on 27 May 2011.

Figurative trademarks:

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

To substantiate the above contentions, the Complainant produced **Annex 9** copy of the above trademark and figurative trademark registrations.

6.6 The Complainant would content that it was recently made aware of the Domain Name, comprising its WHATSAPP trademark preceded by the term "download" and the letters "gb" under the domain extension ".net.in", registered on 11<sup>th</sup> September, 2023 and that the Domain Name currently redirects to <https://gbapp.com.pk> and a website titled "GB WhatsApp Download APK (Updated) Version August 2024 (Official)" that purports to offer for download an unauthorized modified APK version of the Complainant's WhatsApp app (the Respondent's website). To prove the said redirection, the Complainant produced **Annex 11** screen capture of the Respondent's website.

6.7 The Complainant draws attention to the fact that the Respondent's website features a green and white colour scheme that is similar to the green and white colour scheme of the Complainant's WhatsApp platform (**Annex 5 and Annex 11**) and that the Respondent's website also features modified versions of the Complainant's WhatsApp figurative telephone trademark and logos  and

  


a favicon that is very similar to the Complainant's WhatsApp figurative telephone trademark .

6.8 According to the Complainant, on 3<sup>rd</sup> April, 2024, in an attempt to resolve the matter amicably, the Complainant's lawyers sent **Annex 12 Cease and Desist Letter** via email to the Respondent. On the same date, the Complainant's lawyers submitted a Notice via the Registrar's registrant contact form. No response was received and the Complainant's lawyers received bounce back emails in relation to the cease and desist letter on 7<sup>th</sup> April, 2024.

6.9 The Complainant would highlight that the Respondent herein 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:

- (i) WhatsApp LLC v GB Apps, .PK Case Number C2024-0004 (<whatsappgb.pk>);
- (ii) WhatsApp LLC v. Apps.Pk, WIPO Case No. D2024-2487 (<gbwhatsapppro.app>).
- (iii) WhatsApp LLC v GB Apps, Apps.Pk, WIPO Case No. DCO2024-0043 (<gbwhatsapp.net.co>);
- (iv) Instagram LLC v GB Apps, INDRP Case No. 1889 (<instapro.ind.in>);
- (v) Instagram LLC v GB APPS, INDRP Case No. 1890 (<instapro.com.in>); and,
- (vi) WhatsApp LLC v GB Apps, .PK Case Number 2024-0008 (<gbwhatsappdownloads.pk>).

The Complainant produced **Annex 13** copy of the decision in *WhatsApp LLC v GB Apps, .PK Case Number 2024-0008 of the DNDRC* in support of the above contention.

6.10 It is contended by the Complainant that all search results obtained by typing "whatsapp" into the Google search engine at *www.google.com* refer to the Complainant. To prove the same, the Complainant relies on **Annex 16** copies of the Google search result for "whatsapp".

  


6.11 Accordingly, the Complainant sought to transfer the Respondent's domain name under the .IN Policy to protect its rights and legitimate business.

## **7. Respondent's Contentions:**

7.1 Despite service of Notice dated 17<sup>th</sup> January, 2025 to the Respondent's e-mail *gbapps.pk@gmail.com* and even after the extended time period, the Respondent failed to submit reply/response to Domain Complaint. Accordingly, the Tribunal proceeded further in the matter by setting the Respondent set ex-parte.

7.2 Rule 13(b) of the INDRP Rules of Procedure provides that the Arbitrator shall ensure that at all time treat the parties with equality and provide each one of them a fair opportunity to present their case. Further, Rule 17 of the said Rules of Procedure empowers the Arbitrator to proceed with an ex-parte Award in case any party breaches the provisions of the INDRP Rules of Procedure or directions of the Arbitrator.

7.3 In fact, the Respondent was given notice under Rule 2(a) of the INDRP Rules of Procedure to employ reasonably available means calculated to achieve actual notice to the Respondent of the Complaint. As stated above, the Respondent failed to file any reply to the Complaint and never answered the Complainant's assertions, evidence or contentions in any manner. Therefore, it is clear that despite the Respondent been given a fair opportunity to present its case, the Respondent does not comply with the direction of the Tribunal.

7.4 Further, as per Rule 18(a) of the INDRP Rules of Procedure, the Arbitrator shall decide the Complaint based on the pleadings submitted in accordance with the with the Arbitration and Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2019, the .IN Policy, INDRP Rules of Procedure and any law that the Arbitrator deems to be applicable. Therefore, the Tribunal is justified in drawing inferences as are appropriate from the Respondent's failure to reply to the Complainant's assertions and evidence or to otherwise contest the Complaint.

## **8. Discussions and Findings:**

8.1 Accordingly, the Tribunal framed the following issues for consideration:

  


(i) *Whether the Respondent's Domain name is identical and/or deceptively similar to domain name and trademarks of the Complainant?*

(ii) *Whether the Respondent has any rights or legitimate interests in respect of the domain name?*

(iii) *Whether the Respondent's domain name was registered or is being used in absolute bad faith?*

(iv) *Reliefs and cost.*

8.2 The Complainant has produced Annex 1 to 16 to substantiate its contentions. As per Rule 13(d) of the INDRP Rules of Procedure, the Arbitrator shall determine the admissibility, relevance, materiality and weight of the evidence placed for consideration in the proceedings while deciding the Compliant.

8.3 The Complainant would content that as per Paragraph No. 4 of the .IN Policy, **the registered domain name of the Respondent conflicts with its legitimate right and interest being the same identical/confusingly similar to the Complainant's trade mark, that the registrant has no rights or legitimate interests in respect of the domain name and that the registrant's domain name has been registered/being used in bad faith.** To substantiate the above point, the Complainant would rely on the decisions rendered by panels under either the .IN Policy or the Uniform Domain Name Dispute Resolution Policy (the UDRP), as well as the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Overview 3.0), given that the .IN Policy closely follows the UDRP. The Complainant would point out that for instance, in *LEGO Juris A/S v. Robert Martin, INDRP/125 (<lego.co.in>)*, the panel referred to prior UDRP decisions to support its findings.

8.4 It is the contention of the Complainant that the **addition of the term "download" and the letters "gb" does not prevent a finding of confusing similarity** with its WHATSAPP trade mark, which remains clearly recognizable in the Domain Name. In that regard, the Complainant would rely on WIPO Overview 3.0, Section 1.8 and the decision in *Amazon Technologies Inc. v. Logistics, INDRP/939 (<amazoncareer.in>)* wherein it was held that: "*It is a settled law enunciated in various decisions under 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." The Complainant would also place reliance on the findings in *WhatsApp LLC v. Registration Private, Domains By Proxy, LLC/Muhammad Asif, WIPO Case No. D2022-3170* (<gbwhatsappdownload.com>) wherein it was held that: "The mere addition of the letters 'gb' and the generic term 'download', does not, in view of the Panel, serve to avoid a finding of confusing similarity between the disputed domain name and the Complainant's WHATSAPP trademark." The complainant would further refer to the findings in *WhatsApp LLC v. Pruthvi Raj, WIPO Case No. D2023-1715* (<gbwhatsappdownloads.com>).

8.5 With regard to the **".net.in" domain extension**, it is the contention of the Complainant that it is well established under the 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 by referring to the decision in *Google LLC v Hom Kit BkPicture, INDRP/1814*, (<simsim.net.in>). The Complainant would therefore conclude that the Domain Name is confusingly similar to the Complainant's trade mark in accordance with Policy No. 4(a) of the .IN Policy.

8.6 As regarding the point that **the Respondent has no rights or legitimate interests in respect of the Domain Name (Policy No. 4(b) and No. 6 of the .IN Policy)**, the Complainant would contend that the 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." The Complainant by placing reliance on **Annex 14** findings in *Instagram LLC v. Ding RiGuo., INDRP/1183* (<instagram.in>) would assert that the Respondent is unable to invoke any of the circumstances set out in Policy No. 6 of the .IN Policy to demonstrate rights or legitimate interests in the Domain Name.

8.7 As regarding the point that **there is no bona fide offering of goods or services**, the Complainant would content that 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 Policy No. 6(a) of the .IN Policy.

8.8 The Complainant would also content that **it has not authorised, licensed or otherwise allowed the Respondent to make any use of its WHATSAPP trade mark, in a domain name or otherwise** and that 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 by relying on the finding in *Wacom Co. Ltd. v. Liheng, INDRP/634* (<*wacom.in*>) wherein it was held that no legitimate interest is made out 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"*.

8.9 According to the Complainant, **the Respondent's website purports to offer for downloading an unauthorized modified APK version of the WhatsApp application**, which purports to provide WhatsApp users with "extra features that are not available in the official app", including "enhanced features for more functionality and privacy" such as sending larger files and managing multiple accounts from a single device. 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.

8.10 According to the Complainant, nevertheless, even if one is to apply the Oki Data criteria, the Respondent fails to fulfill the first and third criteria, namely that:

(i) 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 he Respondent's website to offer the goods or services at issue, namely the Complainant's WhatsApp application.

(iii) The Respondent's website fails to prominently disclose its lack of relationship with the Complainant. The wording "We are not connected to WhatsApp or any other related service" on the



"Disclaimer" page of the Respondent's website does not constitute 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 modified versions of the Complainant's figurative WhatsApp telephone trade mark and logo, and makes use of a similar white and green colour scheme to that used by the Complainant (**Annex 5 and Annex 11**).

The Complainant by relying on the decision in *WhatsApp LLC v. Registration Private, Domains By Proxy, LLC/Muhammad Asif, WIPO Case No. D2022-3170* (<gbwhatsappdownload.com>) would contend that **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.**

8.11 The Complainant through **Annex 15** would contend that **there is violation of the WhatsApp Terms of Service, available at <https://whatsapp.com/legal/terms-of-service>**, which contention seems to be appealing.

8.12 According to the Complainant, it 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** and to substantiate the same the Complainant highlighted that in *WhatsApp, Inc. v. Nasser Bahaj, WIPO Case No. D2016-0581* (<ogwhatsapp.org> et al.) it is found that "*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.*" The Complainant has also relied on the decision in *WhatsApp, Inc. v. Abdallah Almqbali, WIPO Case No. D2016-1287* (<watsabsplus.com>etal.).

8.13 The Complainant would submit that 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. So according to the Complainant, 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 modified versions of its logo and figurative trade mark to promote the downloading of an unauthorized modified version of the Complainant's WhatsApp application (Annex 11), there is a risk of implied affiliation with the Complainant.** It is the submission of the Complainant that the **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.** The Complainant would rely in this regard on the decision in *WhatsApp Inc. v. WhoisGuard Protected, WhoisGuard, Inc./Mohsen Moussawi, WIPO Case No. D2021-0032 (<cyberwhatsapp.com>)* wherein it was held that *"The evidence provided by the Complainant further shows that the disputed domain name was temporally linked to a website, which content included various references to the Complainant's trademark WHATSAPP as well as a modified version of its telephone logo within a green circle. The Panel considers that this use of the disputed domain name contributes to a risk of affiliation and confusion, which is not avoided by the disclaimer, in English language, included at the bottom of this site in small letters."* As a result, **it can be concluded 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 No. 6(a) of the .IN Policy.**

8.14 With respect to the contention '**Not commonly known by the Domain Name**', the Complainant would state that the **Respondent cannot legitimately claim that it is commonly known by the Domain Name in accordance with Paragraph No. 6(b) of the .IN Policy.** Neither the Respondent's name "GB Apps", nor the organization name "Apps.Pk" bears any resemblance to the Domain Name. According to the Complainant, to the best of its knowledge, the Respondent has not secured or sought to secure any trade mark rights in the term "whatsapp" or "downloadgbwhatsapp". Therefore, it can be concluded that 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 trademark rights.

8.15 The Complainant would substantiate the point '**No legitimate non-commercial or fair use of the Domain Name**' by contending that 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. In that regard, the Complainant would rely on the findings in *WhatsApp LLC v. Furqan Taunsvi, Buch Executive Villas, WIPO Case No. DCC2024-0012* (<gbwhatsapps.cc> et al.) wherein it was held that *"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."* and also the decision in *Lemon Inc. v. Saleem Abbas, WIPO Case No. D2023-4066* (<ressomodapk.com>) wherein it was held that *"[...] 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 non-commercial or fair use of the Domain Name"*.

8.16 Moreover, in light of the nature of the Domain Name, comprising the Complainant's WHATSAPP trademark, preceded by the term "download" and the letters "gb" as detailed above, it can be concluded that **the Domain Name carries with it an implied risk of affiliation with the Complainant, which cannot constitute fair use** (WIPO Overview 3.0, section 2.5.1). Therefore, **the Respondent has no rights or legitimate interests in the Domain Name, in accordance with Policy No. 4(b) of the .IN Policy.**



8.17 Further, it is contended that the Complainant's renown and goodwill worldwide and its trademark rights established long before the registration of the Domain Name, 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. In support of the same, the Complainant relied on the decision in *WhatsApp Inc. v. Warrick Mulder, INDRP/1233* (<whatsapp.in>, registered in 2013): wherein it has been held that "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'." and also the findings in *WhatsApp, Inc. v. Domain Manager et al., WIPO Case No. D2018-1581* (<whatsappalertas.com> et al.) to the effect that "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]."

8.18 In light of the nature of the Respondent's website, which makes prominent reference to the Complainant and its WHATSAPP trademark and features modified versions of the Complainant's WhatsApp logo and figurative trade mark, it is to be inferred that the Respondent had actual knowledge of the Complainant and its trademark when it registered the Domain Name (See *Lemon Inc. v. Saleem Abbas*, wherein it was held that "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.")

8.19 As per Policy No. 4 of the .IN Policy, class of disputes are categorised on 3 premises. In the light of the discussions above and on an analysis of the documents produced by the Complainant and on the facts and circumstances of this case, the Tribunal is of the firm view that the Complainant has succeeded in



establishing that the registration of the disputed domain conflicts with its legitimate rights and interests, that the registration is in bad faith, that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name and the burden of production shifts to the Respondent to produce evidence to rebut the Complainant's case and that in the absence of such evidence, the Complainant is deemed to have satisfied the requirements of Policy No. 4(b) of the .IN Policy.

8.20 Furthermore, the Complainant has also succeeded in establishing that the disputed Domain Name is identical and confusingly similar to the inherently distinctive and well known name and trade mark of the Complainant throughout the world (Policy No. 4(a) of the .IN Policy), that it was registered or is being used in bad faith (Policy No. 4(c) and 7 of the .IN Policy), that the Respondent is by all means is presumed to have knowledge of the Complainant's WHATSAPP trade mark when it registered the Domain Name in September 2023 as held by the Prior panels 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."*), that 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, that the Respondent has engaged in a pattern of trade mark abusive registration targeting the Complainant and its related company, Instagram LLC, which is further evidence of the Respondent's bad faith, that 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 unauthorized versions of the Complainant's application the Respondent acted in bad, that 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, "GBApp", in breach of the WhatsApp Terms of Service, that the Respondent's website features repeated references to the Complainant and its official website and application, as well as modified versions of the



Complainant's figurative trade mark and telephone logo, including as a favicon and in the absence of any 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, especially since the Respondent's website features a green and white colour scheme similar to that of the Complainant's WhatsApp application as held in the decision in *WhatsApp Inc. v. Edwin Lizcano, Inversiones Capira SAS, WIPO Case No. D2019-1700* (<maswhatsapp.com>), that even if a 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 as held in the decision in *WhatsApp Inc. v. Vipul Singh, WIPO Case No.2020-0903* (<whatsapp-quotes.com>), 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 Policy No. 7(c) of the .IN Policy as held in *Amazon Technologies Inc. v Mr. Alex Parker, INDRP/1166* (<amazonemi.in>) to the effect that *"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."*, that the Respondent or the owner of the APK application ultimately derives commercial advantage from the Respondent's unauthorized use of the Complainant's WHATSAPP trademark in the Domain Name as held by the prior UDRP panels 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), that the APK version of the WhatsApp application may disrupt the Complainant's business by driving users to third-party applications as held by the prior UDRP Panels 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>) wherein it was held that *"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".) and that the Respondent's failure to respond to either the cease and desist letter or the Registrar registrant contact form notice sent by the Complainant's lawyers is further evidence of the Respondent's bad faith as held in *WhatsApp Inc. v Warrick Mulder, INDRP/1233 (<whatsapp.in>*)*

8.21 Therefore, on the basis of the aforementioned findings, the Tribunal is pleased to order as follows:

### **Decision**

- i) *The disputed domain name is confusingly similar to Complainant's name/trademarks.*
- ii) *The Registrant has no rights or legitimate interests in respect of the domain name.*
- iii) *The Registrant's domain name has been registered or is being used in bad faith.*
- iv) *The NIXI is to transfer the registration of the Domain Name in dispute **<gbwhatsappdownloads.pk>** to the Complainant, as prayed for, within a week of receipt of this decision. The Complainant shall also be at liberty to contact NIXI for implementation of this decision.*
- v) *The Complainant to suffer the cost.*

### **9. Dispositions:**

9.1 The complainant has given sufficient material evidence to prove extensive trademark rights over the dispute domain name and the Respondent's adoption and registration of the impugned domain name is dishonest and malafide.

9.2 The various Panels have recognized that the Complainant if makes out a prima facie case that the Respondent lacks rights or legitimate interest, it is sufficient that the case put forward by the Complainant is to be accepted. In this case, the Complainant has proved a prima facie case that the Respondent is using the disputed domain name in bad faith.

  


9.3 The Respondent has no rights or legitimate interests in respect of the domain name in accordance with .IN Policy and INDRP Rules of Procedure and the Tribunal directs that the disputed domain name be transferred from the Respondent to the Complainant with a request to NIXI to monitor the transfer.

Dated this the 17<sup>th</sup> March, 2025



  
Adv. **SUNIL V. MOHAMMED**  
Sole Arbitrator

### List of Annex

- Annex 1:** Copies of the .IN Domain Name Dispute Resolution Policy (the .IN Policy) and of the INDRP Rules of Procedure (the .IN Rules).
- Annex 2:** Copy of the Certificate of Conversion of a corporation to a limited liability company, changing the Complainant's name from "WhatsApp, Inc." to "WhatsApp, LLC".
- Annex 3:** Copy of the Power of Attorney signed by the Complainant in favour of its authorized representative.
- Annex 4:** Copy of the WhoIs record for the Domain Name.
- Annex 5:** Screen capture of the Complainant's website at [www.whatsapp.com](http://www.whatsapp.com).
- Annex 6:** Copies of the Complainant's company information, Wikipedia entry, press articles on Meta's acquisition of WhatsApp in 2014, WhatsApp's rankings and its growth and popularity worldwide.
- Annex 7:** Copies of sample WhoIs records for a selection of the Complainant's domain names.
- Annex 8:** Screen captures of the Complainant's social-media pages.
- Annex 9:** Copies of a selection of the Complainant's trade mark registrations for WHATSAPP and its figurative trade mark registrations.



- Annex 10:** Copy of the previous proof of redirection of the Domain Name to <https://gbappss.in>.
- Annex 11:** Screen captures of the Respondent's website and the current proof of redirection.
- Annex 12:** Copy of the cease and desist letter sent by the Complainant's lawyers and screen captures of the Registrar registrant contact form notice.
- Annex 13:** Copy of the decision WhatsApp LLC v GB Apps, .PK Case Number 2024-0008.
- Annex 14:** Copy of the decision Instagram LLC v. Ding RiGuo., INDRP/1183 (<instagram.in>).
- Annex 15:** Copy of the WhatsApp Terms of Service.
- Annex 16:** Copies of the Google search results for "whatsapp" at [www.google.com](http://www.google.com).



  
**Adv. SUNIL V. MOHAMMED**  
Sole Arbitrator