

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. 2025-0001

Also in PDF C2025-0001

1. The Complainant

The Complainant is WhatsApp, LLC, having its office at 1601 Willow Road, Menlo Park California 94025 United States of America. The Complainant has initiated the Complaint vide their authorized representative David Taylor / Jane Seager of Hogan Lovells (Paris) LLP, with their address at 17, avenue Matignon 75008 Paris, France.

2. The Domain Name and Respondent

The domain name upon which the Complaint is based is <whatsappgb.org.pk>, hereinafter referred to as the Disputed Domain Name [“the DDN”].

PKNIC has informed DNDRC that the DDN is registered by Muhamamd Faizan Elahi with the contact name Muhammad Faizan Faizan, with their address at P/O Mangrotha; Tehsil Taunsa Sharif; District Dera Ghazi Khan and that the email address provided at the time of registration of the DDN is adroit.faizan@gmail.com.

3. Procedural History

DNDRC was informed of the Complaint against the Respondent as per PKNIC - Internet Domain Registration Policy, by notification from the Complainant on 28 October 2024 after which DNDRC completed its compliance review.

DNDRC requested the Respondent’s details from PKNIC to which PKNIC provided the requested details on 04 December 2024.

The Respondent was issued a notification of the dispute along with a copy of the Complaint and a Response Form on 06 December 2024 informing the Respondent that if a Response was not

received 10 days from the notification, the dispute would be proceeded ex parte. The Respondent was issued a reminder to file the Response Form on 12 December 2024 and on 23 December 2024.

Applying Paragraph 4(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the *Rules*), DNDRC appointed Mr. Willayat Ali Shah as the sole Arbitrator who has verified that the Complaint satisfies the formal requirements of the Policy and the Rules.

Factual Background

4. Parties Contentions

(a) Complainant

The Complainant's brief contentions are reproduced below:

1. *The Complainant, **WhatsApp, LLC** ("**WhatsApp**"), 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 Facebook, Inc.) ("**Meta**") in 2014, WhatsApp allows users across the globe to exchange messages for free via smartphones, including iPhone and Android. Its main website available at www.whatsapp.com also allows Internet users to access its messaging platform.*
2. *Since its launch in 2009, WhatsApp has become one of the fastest growing and most popular mobile applications in the world, with over 2.78 billion monthly active users worldwide (as of 2023). WhatsApp has acquired considerable reputation and goodwill worldwide, including in Pakistan. WhatsApp is the 4th most downloaded application for iOS phones worldwide and the 1st most downloaded application for iOS in Pakistan according to applications information company Data.ai.*

*A screen capture of the Complainant's website and copies of information on the Complainant, including its Wikipedia entry, press articles on Meta's acquisition of WhatsApp in 2014, its application ranking and rapid growth and popularity worldwide, including in Pakistan are provided as **Annex 4**.*

3. *Reflecting its global reach, the Complainant is the owner of numerous domain names consisting of or including its WHATSAPP trade mark under a wide range of generic Top-Level Domains (**gTLDs**) as well as under numerous country code Top Level Domains*

(ccTLDs). For instance, <whatsapp.com>, <whatsapp.net>, <whatsapp.org>, <**whatsapp.pk**> and <**whatsapp.com.pk**> (Pakistan).

Copies of the WhoIs records for selected domain names comprising the Complainant's WHATSAPP trade mark are provided as **Annex 5**.

The Complainant's trade mark

4. In addition to its strong online presence, the Complainant has secured ownership of numerous trade mark registrations for WHATSAPP in many jurisdictions throughout the world, including in Pakistan, as detailed above.

The Respondent, the Domain Name and the associated website

5. The Domain Name resolves to a website entitled "GB WhatsApp" (**the Respondent's website**). The Respondent's website promotes and offers for download a modified APK version of WhatsApp called "GBWhatsApp". The Respondent's website states:

"GB WhatsApp is a popular modified version of the original WhatsApp application, offering users a more personalized and feature-rich messaging experience. It provides a variety of additional features and customizations not available in the standard WhatsApp app, including but not limited to enhanced privacy options, theme customizations, the ability to hide double blue checks or last seen status, built-in Do Not Disturb (DND) mode, status saving, and an airplane mode for WhatsApp alone."

The Respondent's website also states:

"**Security Concerns:** Since GB WhatsApp is not officially supported by WhatsApp Inc., it poses potential security risks. There's no guarantee of end-to-end encryption, and modified versions could be more susceptible to malware and data breaches."

6. The Respondent's website makes prominent reference to the Complainant's WHATSAPP trade mark and uses variations of the Complainant's figurative trade mark:



Complainant's figurative trade mark



Logos appearing on the Respondent's website

Screen captures of the Respondent's website are provided as **Annex 6**.

7. As detailed below, the Respondent's registration and use of the Domain Name does not conform to the Complainant's Brand Guidelines (see <https://about.meta.com/brand/resources/whatsapp/whatsapp-brand>), nor does it comply with the WhatsApp Terms of Service (see <https://www.whatsapp.com/legal/terms-of-service>).

Copies of WhatsApp's Brand Guidelines and WhatsApp Terms of Service are provided as **Annex 7**.

8. The Complainant submits the present Complaint requesting transfer of the Domain Name to protect its rights and legitimate business interests.

Therefore, the Complainant seeks the following remedy:

In accordance with Paragraph 4(i) of the Policy, the Complainant requests that the Administrative Panel appointed in this administrative proceeding transfer the Domain Name to the Complainant.

(b) Respondent

The Respondent did make any submission.

5. Jurisdiction

The Panel's jurisdiction over this dispute between the Complainant and the Respondent is established by virtue of the Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules.

The Respondent applied for and was granted registration of the DDN on the basis of these regulations, and has submitted to, the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules and correspondingly to the arbitral jurisdiction of the DNDRC and its arbitration decisions.

6. Discussion and Findings

In the landmark case of *Standard Chartered PLC v. Hosting Campus Domain* (case no. C2007-0001) available on the DNDRC website (http://www.dndrc.com/cases_resolved/pdf/c2007-0001)

0001.pdf), the Panel laid down the following four heads under which to analyze cases, under the Internet Domain Registration Policy version 4.4 (2019-08-19) and the UDRP:

1. *Illegality, unlawfulness or otherwise invalidity of the Application & Registration (a criteria in terms of the PKNIC - Internet Domain Registration Policy June 20, 2006 version 4.1 in addition to the criteria of the UDRP)*
2. *Identical or confusing similarity to a trademark or service mark in which the Complainant has rights (a UDRP criteria)*
3. *Legitimate interest in Domain Name (a UDRP criteria)*
4. *Registration and use in bad faith (a UDRP criteria)*

The decision of the dispute shall be addressed with respect to the following aspects:

- i. Illegality, unlawfulness or otherwise invalidity with respect to the Application & Registration (a PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) criteria).
- ii. Identical or confusing similarity with a trademark or service in which the Complainant has rights (a UDRP criteria).
- iii. Legitimate interest in the domain name (a UDRP criteria).
- iv. Registration and use of the domain name in bad faith (a UDRP criteria).

I. Illegality, unlawfulness or otherwise invalidity of the Application & Registration

The PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) states that it creates an exception for, and thus excludes the registration of a domain name that:

- a. *infringes upon a registered tradename,*
- b. *is not bona fide as recognized by international best practice,*
- c. *in the opinion of PKNIC, a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law,*
- d. *has been declared by a Criminal Court of appropriate jurisdiction to have contravened the latest version of Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/Anti-Terrorism Act, 1997/any applicable criminal law), or*
- e. *in the opinion of PKNIC is not appropriate for registration.*

As per the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19),

If a party claims that a domain name already registered with PKNIC violates their registered tradename, an obvious derivation of their registered company name is not bona fide as recognized by international best practice, and is a contravention in the opinion of PKNIC to be a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law, PKNIC reserves the right to cancel, or transfer the domain to the claiming party as per the ICANN's Uniform Domain Name Dispute Resolution Policy [UDRP] (with PKNIC amendments) or as per the orders of a court judgment in Pakistan.

Therefore, for the purpose of assessing illegality, unlawfulness or otherwise invalidity of the Application & Registration of the DDN, the application and registration of the DDN shall be assessed in consideration of the following criteria:

- i. Whether the DDN infringes upon a registered trade name / trade mark?
- ii. Whether the application and/or registration of the DDN is bona fide?
- iii. Whether the application and/or registration of the DDN contravenes the Pakistan Penal Code, 1860 (the “Penal Code”) or any applicable criminal law?

The Complainant has made the following submissions:

This Complaint is based on the following trade mark registrations:

- *Pakistani Trade Mark Registration No. 302143, WHATSAPP, registered on 27 May 2011;*
- *United States Trademark Registration No. 3939463, WHATSAPP, registered on 5 April 2011;*
- *International Registration No. 1085539, WHATSAPP, registered on 24 May 2011;*
- *European Union Trade Mark No. 009986514, WHATSAPP, registered on 25 October 2011.*

WhatsApp also holds figurative trade mark registrations for its telephone logo, including:

- *International Registration No. 1109890, , registered on 10 January 2012; and*
- *European Union Trade Mark No. 010496602, , registered on 18 May 2012.*

*Copies of the abovementioned trade marks are provided as **Annex 3**.*

The Respondent has not contended that the DDN is legal, lawful or valid.

For the purposes of this criterion, it is sufficient for the Complainant to establish that the DDN infringes the trademark of the Complainant (See *Standard Chartered PLC v. Hosting Campus Domain (case no. C2007-0001)*). In that context, the Complainant has provided several proofs of their trademark registrations around the world for “WHATSAPP” including in Pakistan.

The Panel highlights that it is essential for the DDN to infringe the Complainant’s trademark and the content available on the Respondent’s website cannot be considered to complement the finding. The Complainant has not claimed that the DDN itself infringes their registered trademark nor have they discussed whether the addition of terms such as “gb” would constitute an infringement.

Due to the lack of further submission, the Panel finds that the information is insufficient for the purposes of satisfying this criterion. Therefore, the Panel finds it crucial to evaluate each of the three UDRP criteria to determine whether the Complaint can be decided in the favor of the Complainant.

II. Identical or confusing similarity to a trademark or service mark in which the Complainant has rights

The Complainant has made the following submissions:

9. *The first element of paragraph 4(a) of the Policy requires a complainant to establish first, that it has rights in a trade mark or service mark, and secondly, that the disputed domain name is identical or confusingly similar to that trade mark or service mark.*
10. *The Complainant owns numerous trade mark registrations for WHATSAPP in jurisdictions throughout the world, including in Pakistan (see **Annex 3**). The Complainant has therefore established trade mark rights in WHATSAPP for the purposes of paragraph 4(a)(i) of the Policy.*
11. *The Domain Name comprises the Complainant's WHATSAPP trade mark in its entirety followed by the letters "gb" under the country code domain extension ".org.pk".*
12. *The Complainant submits that addition of the letters "gb" does not prevent a finding of confusing similarity, as the Complainant's WHATSAPP trade mark remains clearly recognizable in the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition² (**WIPO Overview 3.0**), section 1.8 and WhatsApp, LLC v.*

Contact Privacy Inc. Customer 7151571251, Contact Privacy Inc. / Gulsher Khan, WIPO Case No. D2023-5230 (<gbwhatsappdownloadpro.net>).

13. *The addition of the country code domain extension ".org.pk" may be disregarded for the purposes of assessment under the first element, as it is a standard requirement of registration; see WIPO Overview 3.0, section 1.11.1.*
14. *For reasons set out above, the Complainant submits that the Domain Name is confusingly similar to the Complainant's WHATSAPP trade mark, in accordance with paragraph 4(a)(i) of the Policy.*

The Respondent has not contended that the DDN is not identical or confusingly similar to the Complainant's mark.

The Complainant has contended that the DDN is confusingly similar to their registered trademark, "WHATSAPP." whereas the Respondent has not provided any response.

The Panel notes that the Complainant has already established their rights as to the trademark "WHATSAPP". The Panel also agrees with the Complainant's contention referencing the WIPO Overview where the constitution of the trademark in its entirety in the DDN would suffice the finding of confusing similarity with the DDN as a side by side comparison of the same would determine recognizability (See also section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Overview 3.0)).

Regarding the addition of the terms "gb", the Panel has reviewed the decision as cited by the Complainant as *WhatsApp, LLC v. Contact Privacy Inc. Customer 7151571251, Contact Privacy Inc. / Gulsher Khan, WIPO Case No. D2023-5230 (<gbwhatsappdownloadpro.net>)*, where it was held that the addition of "GB," "download," and "apk" does not prevent a finding of confusing similarity between the DDN and the trademark for the purposes of this policy.

The Panel is also satisfied with the contention brought forward in relation to the ccTLD ".org" and ".pk" associated with the DDN and agrees that the same be disregarded for the purposes of assessment under this criterion.

Based on the assessment above, the Panel concludes that the DDN is confusingly similar to a trademark in which the Complainant holds rights.

III. Legitimate interests in a domain name

As per paragraph 4(c), the UDRP requires the Respondent's claim to be of legitimate interest and shall be:

“proved based on all evidence presented” that “shall demonstrate” the Respondent's “rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii).”

Paragraph 4(a)(ii) states that:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Complainant has made the following submissions:

15. *The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the Domain Name.*

The Respondent is not using the Domain Name in connection with any bona fide offering of goods or services

16. *The Respondent is not a licensee of the Complainant, nor has the Respondent been authorized by the Complainant to make any use of its WHATSAPP trade mark, in a domain name or otherwise.*
17. *As a preliminary matter, WhatsApp's Brand Guidelines prohibit the registration of domain names that comprise any WhatsApp trade mark and could be confused with WhatsApp. Noting that the Domain Name is confusingly similar to the Complainant's WHATSAPP trade mark, the Respondent's registration of the Domain Name violates WhatsApp's Brand Guidelines (see Annex 7).*

18. *As noted above, the Domain Name resolves to a website that purports to offer for download an unauthorized modified version of the WhatsApp application. Such versions of the WhatsApp application are not authorized by the Complainant and violate WhatsApp's Terms of Service.*
19. *The Complainant is committed to maintaining the integrity of its WhatsApp service and does not support such third-party applications. As such, the Respondent has made unauthorized use of the Complainant's trade mark in the Domain Name and on the website, to offer services that violate the Complainant's Terms of Service. Such use cannot be considered a bona fide offering of goods or services. See WhatsApp, LLC v. GB Apps, DNDRC Case No. 2024-0004 (<whatsappgb.pk>), WhatsApp, LLC v. GB Apps, DNDRC Case No. 2024-0008 (<gbwhatsappdownloads.pk>), WhatsApp, Inc. v. Nasser Bahaj, WIPO Case No. D2016-0581 (<ogwhatsapp.org> et al.). See also WhatsApp, Inc. v. Abdallah Almqbali, WIPO Case No. D2016-1287 (<watsabplus.com> et al.).*

*A copy of the decision in the case WhatsApp, LLC v. GB Apps, DNDRC Case No. 2024-0004 (<whatsappgb.pk>) is provided as **Annex 8**.*

20. *Prior panels have recognized that resellers or 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 may be measured against the list of factors set out in Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903 (<okidataparts.com>) (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.

21. *As a preliminary matter, the Complainant submits that the Respondent is unable to 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 WHATSAPP trade mark to resolve to a website offering for download a third-*

party product. Nevertheless, even if one is to apply the Oki Data criteria, the Complainant submits that the Respondent fails to fulfil the first and third criteria, specifically:

- (i) *The website to which the Domain Name resolves purports to offer for download a third-party application named "GBWhatsApp Pro". As such, the Respondent cannot be said to have been using the website to offer the goods or services at issue, namely the WhatsApp application.*
- (ii) *The website does not accurately and prominently disclose its lack of relationship with the Complainant. The website contains disclaimers-like statements explaining that the "GBWhatsApp" app is not authorized by WhatsApp. However these statements are included in lengthy descriptions of the services offered on the Respondent's which makes them barely visible. In addition the website prominently displays the Complainant's WHATSAPP trade mark, together with variations of the Complainant's figurative trade mark. The website may therefore mislead Internet users into believing that it is operated or authorized by the Complainant, when in fact it is not.*

22. *The Complainant therefore submits that the Respondent is not using the Domain Name in connection with a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy*

The Respondent is not commonly known by the Domain Name

23. *The Respondent cannot legitimately claim that it is commonly known by the Domain Name, in accordance with paragraph 4(c)(ii) of the Policy.*
24. *There are no registrant details in the publicly-available WhoIs record for the Domain Name. The identity of the underlying registrant is essentially unknown.*
25. *To the best of the Complainant's knowledge, there is no evidence of the Respondent having obtained or applied for any trade mark registration or similar right for "whatsapp" or "whatsappgb", as reflected in the Domain Name.*
26. *The Respondent's use of the Domain Name to promote a third-party application that seeks to trade off the goodwill and reputation associated with the Complainant's WHATSAPP trade mark, and facilitate use of services in breach of the Complainant's 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.*

The Respondent is not making a legitimate noncommercial or fair use of the Domain Name

27. *Nor is the Respondent currently making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers within the meaning of paragraph 4(c)(iii) of the Policy.*
28. *The Respondent's use of the Domain Name to resolve to a website offering for download an unauthorized modified version of the WhatsApp application does not amount to legitimate noncommercial or fair use. The provision of services that violate the WhatsApp Terms of Service cannot give rise to rights or legitimate interests in the Domain Name. See Lemon Inc. v. saleem abbas, WIPO Case No. D2023-4066 (<ressomodapk.com>).*
29. *Therefore, the Complainant has established a prima facie showing that the Respondent lacks rights or legitimate interests in the Domain Name. Accordingly, the burden of production shifts to the Respondent to come forward with evidence to rebut the Complainant's case. In the absence of such evidence, the Complainant may be deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy; see WIPO Overview 3.0, section 2.1.*

The Respondent has not contended that they have legitimate interests in the DDN.

The Complainant relies on sub-paragraph 4(c) of the Policy and contends that the Respondent fails on all three grounds that would assist the Respondent in finding a legitimate interest on his part which includes the bona fide offering of goods and services, being commonly known by the DDN or a legitimate non-commercial or fair use of the DDN whereas the Respondent does not make any submission.

The Panel determines that the mere contention of the Complainant of the Respondent lacking rights in the DDN establishes a prima facie case against the Respondent after which the burden of proof to establish that the Respondent has the legitimate interests in the DDN falls entirely upon the Respondent themselves. In those circumstances, if the Respondent fails to satisfy the burden or address the contention entirely, the omission would deem the Complaint to have satisfied lack of legitimate interest (See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455).

The Panel is therefore satisfied that the Respondent does not have any legitimate interest in the DDN.

IV. Registration and use in bad faith

The Complainant has made the following submissions:

30. *Paragraph 4(b) of the Policy lists four factors 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(a)(iii) of the Policy.*
31. *The Complainant submits that paragraph 4(b)(iv) of the Policy is of particular relevance in the present case, although there are other factors not listed in paragraph 4(b) of the Policy that further indicate bad faith, as explained in more detail below.*

Registration in bad faith

32. *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, including in Pakistan (see Annex 4).*
33. *All of the leading search results obtained by typing "WHATSAPP" into the Google search engine available at www.google.com and www.google.com.pk refer to the Complainant.*

Screen captures of the Google search results for "WHATSAPP" are provided as Annex 9.

34. *Given the Complainant's renown and goodwill worldwide and particularly its popularity and trade mark rights well established prior to the registration of the Domain Name, the Respondent could not credibly claim not to have had knowledge of the Complainant's WHATSAPP trade mark when it registered the Domain Name in 2023. See, for example, *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. D2015-0909 (<webwhatsapp.com>, **registered in 2012**).*
35. *The Respondent's website makes multiple references to the Complainant and offers for download an unauthorized version of the Complainant's application. The Complainant's WHATSAPP trade mark is a coined term, exclusively associated with the Complainant and its messaging services. These factors clearly indicate the Respondent's prior knowledge of the Complainant as well as its intent to target the Complainant's trade marks at the time of registration of the Domain Name. See WIPO Overview 3.0, Section 3.2.1 as well as*

WhatsApp Inc., Facebook, Inc. v. Alex Xu, HKITN, WIPO Case No. D2019-1709, (<whatsapp-marketinghk.com> et al.) and Lemon Inc. v. saleem abbas, supra.

36. *Having no relationship with the Complainant or authorization to make use of its trademark in a domain name or otherwise, the Respondent has knowingly proceeded to register the Domain Name, being confusingly similar to the Complainant's well-known WHATSAPP trade mark and with a view to offering for download unauthorized unofficial versions of the Complainant's messaging application, in bad faith.*

Use in bad faith

37. *Given the confusing similarity between the Domain Name and the Complainant's trade mark, and the content of the Respondent's website as described above, in the absence of any clearly visible disclaimer regarding the relationship with the Complainant, Internet users were likely to be misled into believing that the website is somehow affiliated with or otherwise endorsed by the Complainant, which is not the case.*
38. *As detailed above, the Respondent's website purports to offer for download an unauthorized modified version of the Complainant's WhatsApp application, developed by a third party. It is more likely than not that the owners of such third-party applications ultimately derive commercial advantage from the Respondent's unauthorized use of the Complainant's trade mark in the Domain Name and on its website. 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.*
39. *The Complainant therefore submits that by using the Domain Name in this fashion, the Respondent intentionally attempted to attract, for commercial gain, Internet users to the website to which the Domain Name resolved by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the website and the application offered for download therein, in bad faith pursuant to paragraph 4(b)(iv) of the Policy. See WhatsApp, LLC v. GB Apps, supra, WhatsApp, LLC v. Younus Waqar, DNDRC Case No. 2024-0009 (<gbwhatsapp.pk>), WhatsApp, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Mohammed Alkalbani, et al., WIPO Case No. D2016-2299 (<download-whatsapp-plus.net> et al.), WhatsApp, Inc. v. Nasser Bahaj, supra and WhatsApp Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Mohsen Moussawi, WIPO Case No. D2021-0032 (<cyberwhatsapp.com>).*

40. Furthermore, the promotion of an unauthorized modified APK version of the WhatsApp application not only violates the WhatsApp Terms of Service, but also places the security of WhatsApp users at risk as such applications can be used to fraudulently obtain personal data of WhatsApp users or may be used to spread malware. In addition, the Respondent's use of the Domain Name to resolve to a website offering an unauthorized modified APK version of the Complainant's application under the Complainant's trade mark disrupts the business of the Complainant by driving WhatsApp users to a third-party application. Prior panels have held that such activities amount to use of a domain name in bad faith. See *WhatsApp, LLC v. Adila Ayaz, Freelance*, WIPO Case No. D2024-2999 (<anwhatsapp.pro> et al.).
41. Moreover, the Respondent's website displays modified versions of WhatsApp's speech bubble logo (see **Annex 6**), thereby creating a misleading impression of association with the Complainant in bad faith. See *WhatsApp Inc. v. Edwin Lizcano, Inversiones Capira SAS*, WIPO Case No. D2019-1700 (<maswhatsapp.com>).
42. In view of the above, the Complainant submits that the Domain Name was registered and is being used in bad faith, in accordance with paragraph 4(a)(iii) of the Policy.

The Respondent has not contended that the registration and use of the DDN is not in bad faith.

The Complainant has relied on Paragraph 4(b) of the Policy and associated decisions of the previous Panels to support its contention regarding registration and use of the DDN in bad faith by the Respondent. The Complainant has asserted that the Respondent aims to attract the Complainant's customers for commercial purposes by being confusingly similar with the Complainant's trademark.

The Panel initially notes the worldwide recognition of the trademark "WHATSAPP" of the Complainant as also demonstrated via Annex 3. Therefore, the Panel finds it highly unlikely that the Respondent was unaware of the Complainant's trademark at the time of registering the DDN, particularly, when the Respondent has been using the DDN to offer the modified version of the Complainant's products. This suggests that the DDN was registered in bad faith by the Complainant as also referenced by the Complainant as *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. D2015-0909 and Section 3.2.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (See also *Compagnie Générale des Etablissements Michelin v. World Industrial*, WIPO Case No. D2019-0553).

Since it has already been established that the DDN is confusingly similar to the Complainant's "WHATSAPP" trademark, the Panel reviews and relies on the case as cited by the Complainant

as *WhatsApp, LLC v. GB Apps, supra, WhatsApp, LLC v. Younus Waqar, DNDRC Case No. 2024-0009 and others* and finds that the Respondent purposefully exploited the famous mark of the Complainant to attract customers to their own website for commercial gain. (See also Section 3.1.4 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition)

The Panel agrees with *WhatsApp Inc. v. Edwin Lizcano, Inversiones Capira SAS, WIPO Case No. D2019-1700*, finding that the display of Complainant's modified mark to create a sense of affiliation with them furthers the finding of bad faith on part of Respondent. The Panel also reiterates the finding in this decision where lack of submissions by the Respondent also serves as evidence of bad faith.

In light of the above-mentioned findings, the Panel concludes that the DDN was registered and is being used in bad faith by the Respondent.

7. Decision

The Panel, upon the review of the information provided by the Complainant, recognizes that the trademark "WHATSAPP" is registered to the Complainant and Respondent has no legitimate rights over it. Therefore, the continuous use of the DDN relating to the Complainant's registered trademark could result in hinderance in exercise of the rights of the Complainant in the trademark and could also jeopardize the reputation of the Complainant by amounting to confusion regarding the ownership of the DDN.

Taking all the discussion above into consideration, the Panel concludes and decides that:

1. The Respondent's registration of the DDN does not violate the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19);
2. The DDN is confusingly similar to the registered trademark of the Complainant;
3. The Respondent has no legitimate interest in the DDN;
4. The DDN was registered and is being used in bad faith.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the DDN <whatsappgb.org.pk> to the Complainant, as prayed, within 48 hours of receipt of this decision either by email or through the website where it will be uploaded, www.dndrc.com/cases_resolved/, whichever is earlier. The Complainant shall also be at liberty to contact PKNIC for implementation of this decision.



Arbitrator: Willayat Ali Shah

Sole Panelist

Date: 14 January 2025