

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. 2025-0011

Also in PDF C2025-0011

1. The Complainant

The Complainant is INSTAGRAM, 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, with their address at Hogan Lovells (Paris) LLP, 17 avenue Matignon 75008 Paris France.

2. The Domain Name and Respondent

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

PKNIC has informed DNDRC that the DDN is registered by APK BUNDLES with the contact name APK BUNDLES, with their address at Mohalla Shumali Chah Ghallu Wala, Tehsil Taunsa Sharif, District DG Khan and that the email address provided at the time of registration of the DDN is apkbundles@gmail.com.

3. Procedural History

DNDRC was informed of the Complaint against the Respondent in accordance with the PKNIC - Internet Domain Registration Policy upon receiving notification from the Complainant on 09 January 2025. An administrative review of the Complaint was conducted and completed on 13 January 2025, following which the Complainant was notified of the compliance review's completion and the subsequent procedural requirements on 14 January 2025.

Upon the Complainant's fulfillment of the procedural requirements on 14 January 2025, DNDRC formally requested the Respondent's registration details from PKNIC on 20 January 2025. PKNIC provided the Respondent details on 03 February 2025.

DNDRC issued a formal notification of the dispute to the Respondent on 12 February 2025, enclosing a copy of the Complaint and a Response Form, informing the Respondent that failure to submit a Response within 10 days would result in the dispute proceeding ex parte.

The Complainant submitted an amended Complaint Form on 14 February 2025, which was subsequently shared with the Respondent on 18 February 2025. A reminder to submit the Response Form was sent to the Respondent on 25 February 2025.

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, **Instagram LLC (Instagram)**, is a world-renowned leading online photo and video sharing social-networking application. Acquired by Facebook, Inc. (now Meta Platforms, Inc.) in 2012, today Instagram is the world's fastest growing photo and video sharing and editing software and online social network, with more than 2.4 billion monthly active accounts worldwide.*

*A screen capture of the homepage of the Complainant's website at <https://instagram.com> is provided as **Annex 3**.*

2. *Instagram has consistently ranked amongst the top "apps" for mobile devices, including for iOS and Android operating systems. Instagram is currently the most downloaded application worldwide, according to The Financial Times.*

*Copies of Instagram's company information, including its Wikipedia entry, articles about Meta's acquisition of Instagram in 2012 and mobile application rankings, and Interbrand's Best Global Brands 2024 are provided as **Annex 4**.*

3. *Instagram's exponential growth and popularity, including in Pakistan, has been widely reported by specialized technology publications including Tech Crunch as well as major*

international publications such as *The New York Times*, *The Washington Post* (United States) and *Datareportal*.

Copies of sample press articles about Instagram's launch and rapid growth and international popularity, including in Pakistan, are provided as **Annex 5**.

4. The Complainant is the registrant of numerous domain names consisting of or including its INSTAGRAM trade mark under a wide range of generic Top-Level Domains as well as under numerous country code Top-Level Domains (ccTLDs).

Copies of the WhoIs records for a selection of the Complainant's domain names comprising its INSTAGRAM trade mark are provided as **Annex 6**.

5. The Complainant has also made substantial investments to develop a strong presence online by being active on various social-media platforms, including Facebook, X (formerly Twitter) and LinkedIn. These pages are available at the following URLs:

<https://instagram.com/instagram>

<https://facebook.com/instagram>

<https://x.com/instagram>

<http://linkedin.com/company/instagram>

Screen captures of the Complainant's social-media pages are provided as **Annex 7**.

The Complainant's trade mark

6. In addition to its strong online presence, the Complainant has secured ownership of numerous trade mark registrations for INSTAGRAM and INSTA in various jurisdictions, including in Pakistan, as detailed above.

The Domain Name and the associated website

7. The Domain Name currently redirects to <https://instapro.live>, a website titled "InstaPro – Download InstaPro APK Latest v11.90 Android 2024" that purports to offer for download an unauthorized modified APK version of the Instagram application that offers functionality that goes beyond that offered in the official Instagram application, including the ability to download Instagram content (the **Respondent's website**). The Respondent's website states:

"Insta Pro APK is modified version of Instagram that allows users to download photos, videos from Instagram Pro and brings advanced features."

8. *The Respondent's website makes prominent reference to the Complainant's INSTAGRAM and INSTA trade marks, and features the Complainant's logo and figurative trade mark as a logo and favicon, as well as a pink/purple colour scheme that is similar to the colour scheme used by the Complainant, as detailed below.*

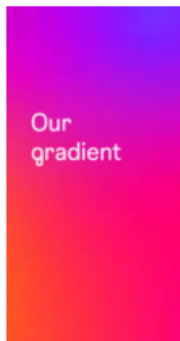
Complainant's figurative trade mark and logo



Logos and favicon on the Respondent's website



Complainant's gradient colour scheme⁵



Colour scheme of the Respondent's website



9. *The Respondent's website contains a step-by-step guide on how to download and install the InstaPro APK.*
10. *The "Disclaimer" tab of the Respondent's website features the following disclaimer-like statement:*

"InstaPro is a modified version of Instagram and is not affiliated with Instagram, Inc. Any use of the app is at your own risk, and we recommend adhering to Instagram's terms of service."

11. *The Respondent's website features commercial advertising banners and full-page advertising pop-ups.*

*Screen captures of the website to which the Domain Name redirects and the proof of redirection are provided as **Annex 8**.*

12. *On 8 October 2024, the Complainant's lawyers sent a cease and desist letter to the Respondent via email to the email address on the Respondent's website, attempting to resolve this matter amicably. No response was received.*

*A copy of the cease and desist letter is provided as **Annex 9**.*

13. *As detailed below, the Respondent's registration and use of the Domain Name neither conforms to the Meta Developer Policies, nor complies with the Instagram Terms of Use.*
14. *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 not make a 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.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:

- *International Trademark Registration No. 1129314, INSTAGRAM, registered on 15 March 2012;*
- *United States Trademark Registration No. 4,146,057, INSTAGRAM, registered on 22 May 2012;*
- *European Union Trade Mark No. 14493886, INSTAGRAM, registered on 24 December 2015;*
- *Pakistani Trade Mark No. 398679, INSTAGRAM, registered on 1 May 2017;*
- *United States Trademark Registration No. 5,061,916, INSTA, registered on 18 October 2016;*
- *Indian Trade Mark No. 3101498, INSTA, registered on 5 December 2017; and*
- *European Union Trade Mark No. 014810535, INSTA, registered on 23 May 2018.*

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

- *European Union Trade Mark No. 015442502,  , registered on 21 September 2016; and*

- United States Trademark Registration No. 5,299,116, , registered on 3 October 2017.

*Copies of these trade mark registrations are provided as **Annex 2**.*

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

The Panel notes that the satisfaction of the criterion as stated under Para 1 and 4 of the PKNIC Policy requires the express contravention of the trademark rights by the DDN. For that purpose, the Complainant has provided numerous proofs of their registration of their mark “INSTAGRAM” around the world including in Pakistan.

However, the Panel also notes that the DDN itself must infringe the trademark and the content on the website would not therefore be considered. While the existence of Complainant’s trademark is acknowledged, it is not ascertained whether the addition of the term “pro” within the DDN avoids the contravention of the trademark rights of the Complainant in “INSTAGRAM”.

The Panel finds that the information is insufficient for the purpose of satisfying this criterion. Therefore, the Panel finds it imperative to evaluate each of the three UDRP criteria to determine the decision of the Complaint.

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

The Complainant has made the following submissions:

15. *The Complainant owns numerous trade mark registrations for INSTAGRAM in jurisdictions throughout the world, including in Pakistan (see Annex 2). The Complainant has therefore established trade mark rights in INSTAGRAM for purposes of paragraph 4(a)(i) of the Policy.*
16. *The Domain Name comprises the Complainant's INSTAGRAM trade mark, followed by the term "pro", under the ccTLD ".pk".*
17. *The Complainant submits that the presence of its INSTAGRAM trade mark in the Domain Name is sufficient to establish confusing similarity between the Domain Name and the Complainant's trade mark; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("**WIPO Overview 3.0**"), section 1.7.*

18. *The Complainant submits that the addition of the term "pro" does not prevent a finding of confusing similarity with the Complainant's INSTAGRAM trade mark, which remains clearly recognizable in the Domain Name. See WIPO Overview 3.0, section 1.8, Instagram, LLC v. pinoy tvshows, WIPO Case No. D2023-3723 (<instagrampro.app>) and Instagram, LLC v. Aina Jannat Aina Jannat, WIPO Case No. D2024-1424 (<instagramproapk.org>).*
19. *The addition of the ccTLD ".pk" may be disregarded for purposes of assessment under the first element; see WIPO Overview 3.0, section 1.11.1.*
20. *The Complainant therefore submits that the Domain Name is confusingly similar to the Complainant's INSTAGRAM 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 identical or confusingly similar to the DDN and has provided corresponding proof demonstrating their ownership with respect to the trademark rights in the DDN.

The Panel refers to WIPO Overview 3.0 as referenced by the Complainant where the test for confusing similarity involves a side-by-side comparison of the DDN with the textual components of the trademark to assess whether the mark is recognizable within the DDN. It also states that where the entirety of a trademark is incorporated into a DDN, it will be considered confusingly similar to that trademark.

The Panel reviews and agrees with the cases as cited by the Complainant as “WIPO Case No. D2023-3723” and “WIPO Case No. D2024-1424” along with WIPO Overview 1.8 and determines that the inclusion of the term “pro” remain relevant for the purposes of the remaining two criteria and can not be considered to prevent a finding of confusing similarity from a DDN.

As for the .pk ccTLD, the Panel agrees with the contention of the Complainant and refers to WIPO Overview 3.0 Section 1.11.1 to find that the extensions such as .com or .pk are not to be taken into consideration when finding confusing similarity between the DDN and the Complainant’s mark as they are necessary for registrations.

The Panel finds that the textual components of the registered mark of the Complainant “INSTAGRAM” can be easily recognized in the DDN “instagrampro.pk” where it also becomes a dominant feature of the DDN, therefore, a finding of confusing similarity may be established.

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:

21. *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

22. *The Respondent is not a licensee of the Complainant, nor has the Respondent been authorized by the Complainant to make any use of its INSTAGRAM trade mark.*
23. *As detailed above, the Respondent's website purports to offer an unauthorized modified APK version of the Complainant's Instagram application, with additional features that are not offered on the Complainant's application, including the ability to download Instagram content (see Annex 8).*
24. *Prior DNDRC Panels have found that purporting to offer for download an unauthorized modified version of the complainant's application does not amount to a bona fide offering of*

goods or services; see *WhatsApp LLC v GB Apps*, Case No. C2024 0004 () and *WhatsApp LLC v GB Plus*, Case No. C2024-0006 (et al).

25. *Prior UDRP 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. This 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 domain names that reflect the trade mark.*

See also WIPO Overview 3.0, section 2.8.

26. *As a preliminary matter, the Complainant submits that the Respondent cannot be viewed as a bona fide service provider, as it does not provide sales or repairs relating to a product provided by the Complainant. Rather, the Respondent is making unauthorized use of the Complainant's INSTAGRAM trade mark to promote a third-party modified version of the Complainant's Instagram application. Nevertheless, if one is to apply the Oki Data criteria, the Respondent at least fails to fulfil the first, second and third criteria*

- (i) The Respondent's website purports to offer for download an unauthorized modified APK version of the Complainant's Instagram 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 Instagram application.*
- (ii) The Respondent's website features commercial advertising banners, from which it is very likely that the Respondent generates revenue. In this way, the Respondent is not using the site to sell only the trade marked goods or services, but is also using the site to advertise third-party products in order to generate click-through revenue.*
- (iii) The Respondent's website fails to prominently disclose its lack of relationship with the Complainant. The brief wording on the "Disclaimer" tab of the Respondent's website does not constitute a prominent disclaimer as to a lack of relationship with the Complainant. Rather, given the repeated references to the Complainant's INSTAGRAM and INSTA trade marks on the Respondent's website and the use of the Complainant's logo and figurative trade mark, the Respondent's website is likely to mislead Internet users into erroneously believing that it is operated or authorized by*

the Complainant. See *Instagram, LLC v. dileep yadav*, WIPO Case No. D2023-3227 (<instagramproapk.com>).

27. The Meta Developer Policies, which apply to Instagram, provide:

"3. Encourage proper use

1. Respect the way Facebook, Instagram, or any of our products looks and functions, and the limits we've placed on product functionality."

A copy of the Meta Developer Policies is provided as **Annex 10**.

28. The Instagram Terms of Use provide that it is prohibited to "modify, translate, create derivative works of or reverse-engineer our products or their components."

A copy of the Instagram Terms of Use is provided as **Annex 11**.

29. The Respondent's use of the Domain Name as detailed above does not confirm to the Meta Developer Policies. See *Instagram, LLC v. rokibul islam*, WIPO Case No. D2024-3293 (<captureinsta.com>).

30. Similarly, the Respondent's offering for download of an APK version of the Instagram application, derived from the Complainant's Instagram product, breaches the Instagram Terms of Use.

31. Moreover, by offering an unauthorized APK version of the Instagram application with functionality that goes beyond the limits of the Instagram platform, including enabling the unauthorized downloading of Instagram content, the Respondent breaches and facilitates breach of the Instagram Terms of Use on the part of its users, which provide that it is prohibited to:

"interfere with or impair the intended operation of the Instagram service; or

attempt to create accounts or access or collect information in unauthorized ways, including creating accounts or collecting information in an automated way without Instagram's express permission."

32. Such use of the Domain Name to offer for download an unauthorized APK derived from the Instagram application that enables the unauthorized downloading of Instagram content interferes with the intended operation of the Instagram service. The unauthorized accessing and collecting of Instagram content may put the security of Instagram users at risk, as

content scraped from the Instagram platform may be stored and later used for unauthorized purposes by third-parties. See Meta Platforms, Inc. v. Muhammad Shahbaz, WIPO Case No. D2024-0288 (<facebookvideodownloader.live>).

33. *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

34. *The registrant information for the Domain Name is redacted (see **Annex 1**). Other than the email address support@instapro.live, the Respondent's website does not feature any contact information.*
35. *There is no evidence of the Respondent having acquired or applied for any trade mark registrations for "instagram" or any variation thereof, as reflected in the Domain Name.*
36. *The Respondent's use of the Domain Name as detailed above does not support any reasonable claim of being commonly known by the Domain Name, nor gives rise to any reputation in the Domain Name itself, independent of the Complainant's trade mark rights.*
37. *The Respondent therefore cannot legitimately claim that it is commonly known by the Domain Name, in accordance with paragraph 4(c)(ii) of the Policy.*

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

38. *Nor can the Respondent assert that it has made or is currently making a legitimate noncommercial or fair use of the Domain Name pursuant to paragraph 4(c)(iii) of the Policy.*
39. *The provision of services that violate the Complainant's Terms of Use 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>).*
40. *The content of the Respondent's website creates a misleading impression that the modified APK provided on this site is authorised, endorsed or otherwise connected with the Complainant. This is particularly the case given the nature of the Domain Name, which comprises the Complainant's INSTAGRAM trade mark, as well as the Respondent's use of the Domain Name to point to a website that features the Complainant's logo and figurative trade mark as well as a colour scheme that is similar to that of the Complainant.*

41. *The Complainant submits that the Respondent is using the Domain Name to exploit the goodwill and reputation associated with the Complainant's trade marks by creating a false impression of association with the Complainant. In this way, the Respondent is misleadingly diverting Internet users to its website, which does not constitute a legitimate noncommercial or fair use of the Domain Name. See Lemon Inc. v. saleem abbas, supra and Facebook, Inc. v. Batyi Bela, Whois privacy services, WIPO Case No. D2020-2683 (<fbvideo.com>).*
42. *As detailed above, the Respondent's website features commercial advertising banners and full page commercial advertising pop-ups, from which the Complainant infers that the Respondent generates income. As a result, the Respondent cannot be said to be making no legitimate noncommercial or fair use of the Domain Name. See WhatsApp LLC v. Mary Anne, WIPO Case No. D2021-1240 (<freewhatsappdownload.net>).*
43. *The Complainant therefore 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 WIPO Overview 3.0, section 2.1. Without such evidence, the Complainant may be deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy.*

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

The Complainant contends a lack of legitimate interest of the Respondent in the DDN and refers to Paragraph 4(c) to refute the circumstances as listed under Paragraph 4(a)(ii) of the UDRP Policy.

The Panel, while relying on several previous WIPO and DNDRC decisions and the WIPO Overview 3.0 Section 2.1, reiterates that proving a negative i.e., the lack of legitimate interests on part of the Respondent usually requires information that is primarily vested with the Respondent themselves, therefore, a Complainant making a prima facie case that the Respondent lacks such rights is sufficient to shift the burden of proof to the Respondent where the Respondent has to come forward with relevant evidence that demonstrates his rights or interest in the DDN. In such a situation, if the Respondent fails to satisfy that burden of proof or omits addressing the same, the Complaint would be deemed to have satisfied the second element.

Although the Complainant has addressed the three elements under Paragraph 4(a)(ii) that could have been used by the Respondent to establish their legitimate interest, they had established a prima facie case against the Respondent, shifting the burden of proof to the Respondent. The Respondent, by failing to make any contention in this regard, has failed to satisfy the burden of proof shifted upon him (See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. D2000-0007).

The Panel therefore finds 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:

44. *The Complainant submits that the Domain Name was registered and is being used in bad faith pursuant to paragraph 4(b)(iv) of the policy, as well as for reasons going beyond the non-exhaustive list of circumstances set out in paragraph 4(b) of the Policy.*

Registration in bad faith

45. *The Complainant's INSTAGRAM trade mark is inherently distinctive and well known throughout the world in connection with its online photo sharing social network, having been continuously and extensively used since its launch in 2010. See Instagram, LLC v. Rahaf Adnan, WIPO Case No. D2023-1433 (<instagramcrypto.com>).*
46. *The Respondent's intent to target the Complainant when registering the Domain Name may be inferred from the contents of the Respondent's website, which makes explicit reference to the Complainant's INSTAGRAM trade mark (see Annex 8). See Instagram, LLC v. Zeeshan Khan, WIPO Case No. D2023-3228 (<instagrampro.pro>). See also Instagram, LLC v. Joney Singhal, K4 Media & Technologies LLP, WIPO Case No. D2024-2692 ().*
47. *The Complainant further notes that since the Respondent registered the Domain Name, it has not displayed any bona fide intent in relation to it. Rather, the Respondent has taken steps to point the Domain Name to a website that purports to provide for download an unauthorized modified version of the Complainant's Instagram application that, in turn, enables Internet users to download content from Instagram. Such activity violates the Meta Developer Policies and facilitates breach of the Instagram Terms of Use.*
48. *The Complainant submits that the Respondent's failure to respond to the Complainant's lawyers' cease and desist letter (see **Annex 9**) also supports a finding of bad faith; see Instagram, LLC v. Niyaz Khan, Ergonomic solutions, WIPO Case No. D2024-3290 (<privateinstaviewer.com>).*
49. *For the reasons set out above, the Complainant submits that the Respondent, having no authorization to use the Complainant's trade mark, registered the Domain Name with knowledge of the Complainant's prior rights with a view to engaging in activity that would facilitate and promote illegitimate use of the Complainant's platform, in bad faith.*

Use in bad faith

50. *In light of the nature of the Domain Name as detailed above, the prominent use of the Complainant's INSTAGRAM trade mark and its Instagram logo and figurative trade mark as well as the use of a colour scheme that is similar to the Complainant's scheme as detailed above (see Annex 3 and Annex 8), the Complainant submits that the Respondent is seeking to target the Complainant's trade mark to create an impression of association with the Complainant, in bad faith. See Instagram, LLC v. Domain Administrator, Registrant of aloinstagram.com et al. WIPO Case No. D2021-2127 (<aloinstagram.com>).*
51. *The Complainant submits that the Respondent likely derives revenue from the unauthorized APK version of the Complainant's Instagram application. Furthermore, as detailed above, the Respondent's website features commercial advertising banners and full page commercial advertising pop-ups, from which the Complainant infers that the Respondent generates click-through revenue. In this way, the Complainant submits that the Respondent is using the Domain Name to intentionally attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website and the services offered therein, in bad faith, pursuant to paragraph 4(b)(iv) of the Policy. See Instagram, LLC v. Van Nam Tran, University, WIPO Case No. D2024-1576 (<instaviewers.net> et al.).*
52. *The Complainant further submits that the Respondent's use of the Domain Name disrupts the Complainant's business by driving Instagram users to a third-party application. Prior UDRP panels have held that such activities amount to use of a domain name in bad faith; see WhatsApp, LLC. v. Malika BZDRR, WIPO Case No. D2023-4808 (<downloadgbwhatsapp.co> et al.).*
53. *The lack of clearly visible disclaimer on the homepage of the Respondent's website to clarify the Respondent's relationship (or lack thereof) with the Complainant further adds to the confusion caused by the Domain Name and further evidences the Respondent's bad faith conduct; see WIPO Overview 3.0, section 3.7. However, the Complainant submits that even if a clearly visible disclaimer were featured on the homepage of the Respondent's website rather than on a separate tab, it would not have been sufficient to cure the Respondent's illegitimate use of the Domain Name; see Instagram, LLC v. Protection of Private Person et al., WIPO Case No. D2022-2832 (<insta-stories.online> et al.).*
54. *As a result, the Complainant asserts 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 contends that the Respondent registered the DDN in bad faith, citing lack of authorization despite having the knowledge of the Complainant's trademark rights in the DDN.

The Complainant further contends the use of DDN in bad faith citing the use of Complainant's mark to disrupt its business by causing confusion to its consumers.

Initially, the Panel reviews and agrees with the case cited by the Complainant such as *WIPO Case No. D2024-3290* claiming that failure to respond to the cease-and-desist notice from the Complainant shall be considered as supporting evidence of bad faith, however, it would not be considered conclusive evidence of the same.

Simultaneously, the Panel notes that the circumstances mentioned under Paragraph 4(b) of the UDRP Policy, if established, shall be considered as evidence of registration and use of the DDN in bad faith (See *Amazon.com, Inc. v. Wes Mayder, WeDirect, Inc. and Iclicks Case No. D2003-0258*)

In the current case and in the view of the Panel, the use of the DDN demonstrates the Respondent's intent of commercial gain by misleadingly diverting the Complainant's consumers and by profiting from revenues and/or data that solely will be accessible for them in view of the association with the Complainant's notorious trademarks as under Paragraph 4(b)(iv). This is further reinforced by the lack of submissions by the Respondent, the offering of the Complainant's trademarked and modified products on the Respondent's website and the finding of confusing similarity by the Panel hereinabove (See *WIPO Case No. D2012-1765, MasterCard International Incorporated ("MasterCard") v. Wavepass AS / WIPO Case No. D2009-0320, Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*)

Additionally, the Panel vide Annex 2 provided by the Complainant acknowledges the global recognition of the Complainant and stands satisfied with regards of the trademark rights of the Complainant in "INSTAGRAM". In this context, such global recognition makes it highly unlikely for the Respondent to be unaware of the "INSTAGRAM" mark, particularly since the Respondent offers an unauthorized and modified version of the Complainant's product thereby further establishing a finding of bad faith (See *Saad Zaeem, Caramel Tech Studios, WIPO Case No. D2014-1240*).

Even otherwise, it was the Respondent's duty to verify that the registration of the DDN is not in contravention of any trademark rights which the Respondent failed to fulfill (*WIPO Case No. D2002 0806, Carolina Herrera, Ltd. v. Alberto Rincon Garcia*)

Given the above, the Panel finds that the DDN was registered and is being used in bad faith by the Respondent.

7. Decision

Upon reviewing the contentions and information provided by the Complainant above, the Panel acknowledges that the “INSTAGRAM” mark is registered and owned by the Complainant and the Respondent has no trademark rights over it. Therefore, the continuous use of the DDN <instagrampro.pk> would adversely impact the exercise of the Complainant’s trademark rights, despite being in a separate jurisdiction 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 by the Respondent.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the DDN <instagrampro.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: 15 April 2025