

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. 2025-0014

Also in PDF C2025-0014

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, 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 <gbwhatsapppro.com.pk>, hereinafter referred to as the Disputed Domain Name [“the DDN”].

PKNIC has informed DNDRC that the DDN is registered by Muhammad Sibtain Riaz with the contact name Muhammad Sibtain Riaz, with their address at Mohala Nizam Abad, Taunsa and that the email address provided at the time of registration of the DDN is aatifhervi@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 11 March 2025.

Upon the Complainant’s fulfillment of the procedural requirements on 15 April 2025, DNDRC formally requested the Respondent’s registration details from PKNIC on 15 April 2025. PKNIC provided the requested details on 17 April 2025.

DNDRC issued a formal notification of the dispute to the Respondent on 18 April 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. A reminder to submit the Response Form was sent to the Respondent on 25 April 2025.

The Complaint along with all relevant material was referred to the appointed arbitrator for review and decision on 03 May 2025. The arbitrator completed the review and issued a decision on 16 May 2025. DNDRC, following the completion of the procedural obligations, transmitted the decision to the concerned parties on 05 June 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:

A. Introduction - The Facts

The Complainant

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 2nd most downloaded application in Pakistan and 4th in the world as per Data.ai's Top Apps Rankings in 2024.*

See **Annex 4** for 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.

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**), including <whatsapp.com>, <whatsapp.net>, <whatsapp.org>, <whatsapp.pk> and <whatsapp.com.pk>.

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.

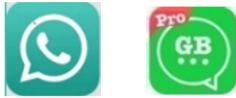
The Domain Name and the associated website

5. The Domain Name currently points to a website at <https://gbwhatsapppro.com.pk/> (the **Respondent's website**) which promotes and offers for download a modified APK2 version of WhatsApp known as "GB WhatsApp". The Respondent's website features the following wording:

"WhatsApp is remembered for online chat and calling services. However, you can likewise use the optional authority WhatsApp, GB WhatsApp APK. It has many improved features that you want to use."

6. This unauthorized modified version of WhatsApp purportedly provides functionalities that go beyond those offered in the official WhatsApp app, notably including bulk messaging.
7. In addition, the Respondent's website features a green and white color scheme that is very similar to the Complainant's green and white WhatsApp color scheme, as well as logos and a favicon that are very similar to the Complainant's logos and figurative trade marks, as follows:

The logos and favicon featured on the Respondent's website



The Complainant's WhatsApp logos



8. *The Respondent's website makes prominent reference to the Complainant's WHATSAPP trade mark.*
9. *The Respondent's website features no disclaimer as to its lack of relationship with the Complainant.*

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

10. *As explained in more detail 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 the WhatsApp's Brand Guidelines and the WhatsApp Terms of Service are provided as **Annex 7**.*

11. *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:

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

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

- *International Registration No. 1109890,  , registered on 10 January 2012; and*
- *International Registration No. 1483880,  , registered on 16 October 2018.*

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

The Respondent has not made a submission.

The Panel notes that express contravention of trademark rights are required to satisfy the criteria established vide Para 1 and 4 of the PKNIC Policy. Accordingly, it needs to be proven that the DDN gbwhatsapppro.com.pk violates the acquired trademark rights of the Complainant. For this purpose, the Complainant has provided numerous proofs of their registration of their mark “WHATSAPP” around the world including in Pakistan.

The Panel acknowledges the existence of the Complainant’s trademark rights however also recognizes the lack of submissions made about the addition of the terms “gb” and “pro” in the DDN. Thus, it is unclear whether these additions can be ignored for the purposes of this assessment or if the additions avoid the contravention of the Complainant’s trademark rights.

Given the lack of contention regarding the above, the Panel finds it imperative to assess the Complaint based on 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:

12. *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.*
13. *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.*
14. *The Domain Name comprises the Complainant's WHATSAPP trade mark in its entirety, which is prefixed by the two letters "gb" and followed by the term "pro", under the ccTLD domain extension ".com.pk".*
15. *As stated in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (**WIPO Overview 3.0**), section 1.7:*

"[...] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."
16. *The Complainant submits that the presence of its WHATSAPP trade mark in the Domain Name is sufficient to establish confusing similarity between the Domain Name and the Complainant's WHATSAPP trade mark.*
17. *As stated in WIPO Overview 3.0, section 1.8:*

"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."
18. *The Complainant submits that the mere addition of the letters "gb" as a prefix and the term "pro" as a suffix does not prevent a finding of confusing similarity between the Domain Name*

and the Complainant's WHATSAPP trade mark, which remains recognizable in the Domain Name. See WhatsApp LLC v. Apps.Pk, WIPO Case No. D2024-2487 (<gbwhatsapppro.app>), WhatsApp, LLC. v. Malika BZDRR WIPO Case No. D2023-4808 (<gbwhatsapppro.co> et al) and WhatsApp LLC v. Younus Waqar, DNDRC Case No. 2024-0009 (<gbwhatsapps.pk>).

19. *The addition of the ccTLD domain extension ".com.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.*
20. *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 made any submissions.

The Complainant has contended that the DDN is confusingly similar to the Complainant's trademark basing their contentions on past precedents and the WIPO Overview 3.0.

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. Accordingly, a side-by-side comparison of the DDN gbwhatsapppro.com.pk with the Complainant's trademark "WHATSAPP" reveals that the trademark is indeed recognizable within the DDN. Additionally, the Panel agrees with the Complainant's contention and finds that a DDN would normally be considered confusingly similar to a trademark where it entirely, or a dominant feature of the trademark, is incorporated in the DDN.

The Panel reviews the cases as cited by the Complainant as "WIPO Case No. D2024-2487", "WIPO Case No. D2023-4808" and "DNDRC Case No. 2024-0009" along with WIPO Overview 1.8 and finds that the addition of the term "gb" and "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 .com.pk ccTLD, the Panel agrees with the Complainant and refers to WIPO Overview 3.0 Section 1.11.1 to find that such extensions cannot prevent a finding of confusing similarity as they are necessary for domain registrations.

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 WHATSAPP trade mark, in a domain name or otherwise.*

23. *As a preliminary matter, the Complainant submits that the Respondent is unable to be viewed as a bona fide service provider, as it is not providing sales or repairs in relation to a product provided by the Complainant. Rather, the Respondent is making unauthorized use of the Complainant's trade marks to promote a third-party modified version of WhatsApp. Nevertheless, even if one is to apply the Oki Data criteria, the Respondent at least fails to fulfil the first and third Oki Data criteria:*
- (i) The Respondent is not a reseller or service provider as the Respondent is not actually offering WhatsApp, but rather an unauthorized version of WhatsApp. As such, the Respondent cannot be said to be using the Respondent's website to offer the goods or services at issue.*
 - (iii) The Respondent's Website does not clearly disclose its lack of relationship with the Complainant. Rather, the Respondent's website prominently displays the Complainant's WHATSAPP trade mark, together with variations of the Complainant's figurative trade marks and logos, and makes use of the same green-and-white colour scheme used by the Complainant. The Respondent's website may therefore mislead Internet users into believing that it is operated or authorized by the Complainant, when in fact it is not.*
24. *In addition to the absence of a disclaimer, the Respondent's website displays variations of the Complainant's figurative trade marks and features the Complainant's WHATSAPP trade mark, along with its distinctive speech bubble logo and business logo, for the purposes of promoting a modified WhatsApp APK (see **Annex 6**). Prior panels have held that such use cannot be considered as bona fide use within the meaning of paragraph 4(c)(i) of the Policy as it is clear that the Respondent deliberately designed the Respondent's website to give the false impression to Internet users that they have reached the Respondent's website and the modified WhatsApp APK provided on the Respondent's website are authorized by or otherwise connected to the Complainant. See *WhatsApp Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Mohsen Moussawi*, WIPO Case No. D2021-0032 (<cyberwhatsapp.com>), *WhatsApp, Inc. v. Abdallah Almqbali*, WIPO Case No. D2016-1287 (<whatsappplus.com> et al.) and *WhatsApp, Inc. v. Nasser Bahaj*, WIPO Case No. D2016-0581 (<ogwhatsapp.org> et al.).*
25. *Furthermore, the modified WhatsApp APK promoted via the Domain Name is not authorized by the Complainant, and violates the WhatsApp Terms of Service (see **Annex 7**) providing as follows:*

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

26. *The Complainant is committed to maintaining the integrity of its WhatsApp service and does not support such third-party applications. As such, the Respondent's use of the Domain Name in breach of the Complainant's Terms of Service cannot be considered as bona fide under the Policy. See WhatsApp, Inc. v. Nasser Bahaj, supra, WhatsApp, LLC v. GB Apps, DNDRC Case No. 2024-0004 (<whatsappgb.pk>) and WhatsApp, LLC v. GB Apps, DNDRC Case No. 2024- 0008 (<gbwhatsappdownloads.pk>).*
27. *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

28. *The Respondent cannot legitimately claim that it is commonly known by the Domain Name, in accordance with paragraph 4(c)(ii) of the Policy.*
29. *The registrant information for the Domain Name is redacted in the publicly-available WhoIs record (see **Annex 2**). The Respondent's website does not display any contact details. Therefore, the identity of the Domain Name owner is unknown.*
30. *As detailed above, the Respondent's name has been disclosed as "Muhammad Sibtain Riaz", which does not bear any resemblance to the Domain Name. Nor is there any evidence of the Respondent having obtained or applied for any trade mark registration or similar right for "WHATSAPP" or "GBWHATSAPPPRO", as reflected in the Domain Name.*
31. *Furthermore, the Respondent's use of the Domain Name to promote an unauthorized WhatsApp APK 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.*

32. *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

33. *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.*
34. *The Respondent's use of the Domain Name to purport to offer for download unauthorized modified versions of the Complainant's WhatsApp application does not amount to legitimate noncommercial or fair use. See WhatsApp LLC v. Furqan Taunsvi, Buch Executive Villas, WIPO Case No. DCC2024-0012 (<gbwhatsapp.cc> et al.).*
35. *The Complainant submits that in light of the above factors, it 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 made any submissions.

The Complainant invokes Paragraph 4(c) of the UDRP Policy to demonstrate that the Respondent lacks any legitimate interest in the domain name, asserting that none of the defenses outlined under Paragraph 4(a)(ii) are applicable to the Respondent.

The Panel refers to Section 2.1 of the WIPO Overview 3.0, which emphasizes that demonstrating a negative, such as the Respondent's lack of legitimate interest, involves information uniquely within the Respondent's knowledge. As such, it is sufficient for a Complainant to establish a prima facie case of no rights or legitimate interests, thereby shifting the burden of proof to the Respondent to produce evidence demonstrating otherwise. Where the Respondent fails to meet this burden or does not address the issue, the Complainant is deemed to have satisfied the second element.

In this case, although the Complainant addressed the three possible defenses under Paragraph 4(c) that could support a claim of legitimate interest, the establishment of a prima facie case was itself sufficient to shift the evidentiary burden. The Respondent's failure to offer any rebuttal or

supporting evidence means he did not discharge this burden and in turn resulted in the satisfaction of this criterion (See *Wal-Mart Stores, Inc. v. WalMart Careers, Inc. Case No. D2012-0285*).

The Panel therefore finds that the Respondent does not have any legitimate interests in the DDN.

IV. Registration and use in bad faith

The Complainant has made the following submissions:

36. *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.*
37. *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 that go beyond the non-exhaustive list of circumstances set out in paragraph 4(b) of the Policy.*

Registration in bad faith

38. *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**).*
39. *All top results obtained by typing "WhatsApp" into the Google search engine available at www.google.com and www.google.com.pk refer to the Complainant. Copies of the Google search results are provided as **Annex 8**.*
40. *Given the Complainant's renown and goodwill worldwide and particularly its popularity and trade mark rights established prior to the registration of the Domain Name, the Respondent could not credibly argue that it did not have knowledge of the Complainant's WHATSAPP trade mark when registering the Domain Name in March 2024. See, for example, *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. D2015-0909 (<webwhatsapp.com>).*
41. *The content of the Respondent's website clearly demonstrates the Respondent's actual knowledge of the Complainant and its trade marks, as the website made multiple references*

to the Complainant and its WHATSAPP trade mark, featured very similar logos to the Complainant's WhatsApp logos and figurative trade marks, a green and white colour scheme very similar to the Complainant's colour scheme and purports to offer 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 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.)¹⁵ and *WhatsApp Inc. v. Super Privacy Service LTD c/o Dynadot*, WIPO Case No. D2019-2519.

42. The Complainant submits that the Respondent registered the Domain Name, not only with full knowledge of the Complainant's rights, but also with the intent to attract Internet users to the Respondent's website for the promotion of an unauthorized modified version of the Complainant's application, in bad faith.

Use in bad faith

43. 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 disclaimer regarding the Respondent's lack of relationship with the Complainant, Internet users are likely to be misled into believing that the Respondent's website is somehow affiliated with or otherwise endorsed by the Complainant, which it is not.
44. 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.
45. 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, supra, 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, supra.

46. *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.).*
47. *As detailed 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 made any submissions.

The Complainant contends that the Respondent registered and using 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 his business by causing confusion to the consumers and therefore deriving unlawful revenue from the DDN.

Initially, the Panel agrees with the Complainant's contention that the Respondent was aware of the Complainant's trademark at the time of registration of DDN. Section 3.2.2 of the WIPO Overview 3.0 affirms that in such cases of well-known marks, a respondent is expected to have known of the complainant's rights. The Panel also considers the precedent set in WIPO Case No. D2015-0909, as cited by the Complainant, and concurs that the Respondent likely had knowledge of the Complainant's trademark at the time of registration as even a basic online search would have revealed the existence and prominence of the Complainant's trademark.

The above is also reaffirmed by the fact that the Complainant's mark was used by the Respondent on the website whereas the Respondent submitted no response to refute Complainant's claims. However, the Panel notes that such knowledge alone does not conclusively establish bad faith.

The Panel concurs with the Complainant that the circumstances outlined in Paragraph 4(b) of the UDRP Policy, if proven, may constitute evidence of bad faith registration and use of the disputed domain name (DDN) (see *Amazon.com, Inc. v. Wes Mayder, WeDirect, Inc. and Iclicks, WIPO Case No. D2003-0258*).

In particular, the Complainant has specifically invoked Paragraph 4(b)(iv) of the Policy. Under this provision, a finding of bad faith requires that the DDN be used to intentionally attract internet users for commercial gain by creating a likelihood of confusion with the Complainant's mark. The Panel has already determined that the DDN is confusingly similar to the Complainant's trademark and that the Respondent acted with willful blindness, as per WIPO Overview 3.0. Accordingly, the remaining question is whether the Respondent's use of the DDN results in commercial gain.

In this regard, the Complainant has cited Section 2.5.3 of the WIPO Overview 3.0, which the Panel finds instructive. It clarifies that commercial gain is not limited to financial benefit; it may also include reputational advantage or leverage in negotiations, even if such gain is not readily quantifiable. Based on this understanding, the Panel concludes that the Respondent is deriving commercial gain by diverting the Complainant's consumers through misleading use of the Complainant's mark and by extracting revenues and/or data accessible only due to the association with the Complainant's trademark. This conclusion is further supported by the unauthorized offering of modified versions of the Complainant's products on the Respondent's website (see *MasterCard International Incorporated ("MasterCard") v. Wavepass AS, WIPO Case No. D2012-1765*).

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

48. Decision

Upon reviewing the contentions and information provided by the Complainant above, the Panel acknowledges that the "WHATSAPP" mark is registered and owned by the Complainant and the Respondent has no trademark rights over it. Therefore, the continuous use of the DDN <gbwhatsapppro.com.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.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the DDN <gbwhatsapppro.com.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: 16 May 2025