



मध्य प्रदेश MADHYA PRADESH

CV 005710

**BEFORE THE ARBITRATOR RAJESH BISARIA
UNDER THE
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)
[NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]**

ARBITRAL AWARD

Date-19.07.2025

Disputed Domain Name: instaup.net.in

INDRP Case no -1997

THE PARTIES

- (1) The Complainant is The Complainant is Instagram, LLC, 1601 Willow Road , Menlo Park, California 94025 , United States of America. Telephone:+33 1 53 67 47 47
Fax:+33 1 53 67 47 48, Email: domaindisputes@hoganlovells.com
The Respondent is GB Apps , Apps.Pk , District DG Khan, Tehsil Taunsa sharif, Taunsa Sharif, Punjab, 32100, Pakistan. Telephone: (+92)03437689677 Email: gbapps.pk@gmail.com



THE DOMAIN NAME AND REGISTRAR**(2)**

(a) This dispute concerns the domain name **instaup.net.in**

(b) The Registrar with whom the disputed domain name is registered is indicated

as: Dynadot LLC, Address: P.O. Box 345, San Mateo CA 94401, United States

Telephone: +1 6502620100, Email: info@dynadot.com

This was registered on 1st September 2023

PROCEDURAL HISTORY**(3)**

The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure	19.05.2025
Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI.	20.05.2025
Due date of submission of Statement of Claim by Complainant (instructed by mail dated 20.05.2025)	30.05.2025
Complainant 's response by submitting their Statement of Claim to AT-	
Soft copy	20.05.2025
Hard copy	20.06.2025
Complainant 's response by submitting their Statement of Claim along with all annexures to Respondent-	
Soft copy - Complainant sent the copy of complaint along with all annexures to Respondent vide their mail dated 20.05.2025. Complainant vide their mail dated 21.05.2025 intimated that – <i>'Please see attached proof of soft copy service of the documents on the Respondent which was sent with you on</i>	20.05.2025



copy on 20 May 2025. We requested delivery and read receipts for these emails and have only received delivery receipts, which we attach. We confirm that we have not received any bounce-back emails as at the time of sending this email'.

Hard copy –

Complainant vide their mail dated 20.06.2025 intimated that - 'A hard copy of the Complaint and Annexures has also been couriered to Respondent on 21.05.2025 and tracking report attached', which reflects that said documents were sent by LA POSTE International shipping agency with document number RK670222822FR.

Complainant vide their mail dated 20.06.2025 intimated that - "As shown in the tracking update, the package has not yet been delivered. In our experience, packages sent to India are usually delivered within 2-3 weeks. We consider that the delay is likely because the address "District DG Khan Tehsil Taunsa sharif, Taunsa Sharif Punjab, 32100 Pakistan" appears to be incomplete".

AT observed that the Respondent has acknowledged the receipt of complaint via email but Complainant failed to file the delivery status report from the courier service provider.

Due date of submission of Statement of Defense by Respondent as instructed by AT mail dated 20.05.2025 and as instructed by AT mail dated 19.06.2025	10.06.2025 25.06.2025
Respondent's response by submitting their Statement of Defense against the due date of submission as 10.06.2025 and thereafter 25.06.2025	Not submitted
Complainant's response by submitting their Rejoinder	Not required



As per AT's mail dated 20.05.2025 respondent was directed to file the SOD by 10.06.2025, and thereafter by 25.06.2025. However, Respondent failed to file their SOD within said time limit, therefore vide AT's mail dated 30.06.2025 intimated that – <i>"As per AT's mail dated 20.05.2025 Respondent was directed to file the Soft copy (PDF & Editable) and the Hard copy of 'Reply of the said complaint (Statement of Defense)' along with complete set of annexure' on or before 10.06.2025 and thereafter up to 25.06.2025 vide AT's mail dated 19.06.2025. But the Respondent failed to file the same within said time limit or even up to today ie 30.06.2025. Therefore their right to submit the same is forfeited and proceeding of this Arbitration case is closed for publishing the Award on merit.."</i>	30.06.2025
The language of the proceedings	English

FACTUAL BACKGROUND

(4) The Complainant:

The Complainant is Instagram LLC , Address: 1601 Willow Road, Menlo Park, California, 94025, United States of America , Telephone: +33 1 53 67 47 47
Fax: +33 1 53 67 47 48 , Email: domaindisputes@hoganlovells.com

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

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

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



Electronic-only material:

Method: Email

Address: domaindisputes@hoganlovells.com

Contact: David Taylor / Jane Seager

Material including hardcopy:

Method: Post / Fax

Address: Hogan Lovells (Paris) LLP, 17 avenue Matignon , 75008 Paris , France

Fax: +33 1 53 67 47 48

Contact: David Taylor / Jane Seager

(5) The Respondent:

The Respondent is GB Apps , Apps.Pk , District DG Khan, Tehsil Taunsa sharif, Taunsa Sharif, Punjab, 32100, Pakistan. Telephone: (+92)03437689677 Email: gbapps.pk@gmail.com

(6) Complainant's Activities:

(a) The Complainant is a world-renowned leading online photo and video sharing social networking application. Since its launch in 2010, Instagram rapidly acquired and developed considerable goodwill and renown worldwide. 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 4.

(b) 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 5.

(c) 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. See, for instance, "Instagram Quickly Passes 1 Million Users", The New York Times (21 December 2010) and "DIGITAL 2023: PAKISTAN", Datareportal (13 February 2023). Copies of sample press articles about Instagram's launch and rapid growth and international popularity, including in Pakistan, are provided as Annex 6.

(d) Given the exclusive online nature of the Complainant's business, the Complainant's domain names consisting of its trade mark are not only the heart of its business, but also a primary way for its millions of users to avail themselves of its services. 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.

Copies of the WhoIs records for a selection of the Complainant's domain names are provided as Annex 7.

(e) 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://twitter.com/instagram>

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

Screen captures of the Complainant's social media pages are provided as Annex 8.

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

(f) The Complainant has secured ownership of numerous trade mark registrations for INSTAGRAM and INSTA, as well as figurative trade mark registrations for its Instagram logo, in various jurisdictions, including the following:

- 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;
- Indian Trade Mark No. 3042394, INSTAGRAM, registered on 27 August 2015;
- 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 trademark registrations are provided as Annex 9.



The Domain Name and associated website

(g) The Complainant was recently made aware of the Domain Name, comprising its INSTA trademark followed by the term "up", under the domain extension ".net.in", registered on 1 September 2023.

(h) The Domain Name resolves to a website titled "InstaUp / InstaUp APK Download Latest Version for Android 2024" that purports to offer for download an unauthorized modified APK version of the Instagram app. This modified APK version of the Instagram app 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:

"Today Instagram is used by billions of people. They share their experience of daily life with their viewers. Also, Instagram is used for branding and promoting business. But the biggest lack that is found in Instagram is there are no premium features. I will be happy to introduce a premium version of Instagram's ordinary app to you called InstaUp APK. It is the modified version of the authorized app which provides you with a lot of premium features that you will not find anywhere other. These features include downloading media, increasing content reach, getting free followers, and getting free likes on your posts."

(i) The Respondent's website also features the following wording in relation to "free followers":

"You can get free followers with the help of a mod app. This feature is the reason InstaUp for become such a popular mod. As the importance of followers is discussed above then I will not waste your time in stocks. In simple you can get many free followers and can get ideas to increase your followers."



(j) The Respondent's website makes prominent reference to the Complainant's INSTAGRAM and INSTA trademarks, and features a modified version of the Complainant's logo and figurative trademark as a logo and favicon, as well as a pink/purple colour scheme that is similar to the colour scheme used by the Complainant.

(k) Neither the Homepage nor the "Disclaimer" tab of the Respondent's website features any disclaimer like wording as to the lack of relationship between the Respondent and the Complainant.

Screen captures of the Respondent's website are provided as Annex 10.

(l) On 6 December 2024, the Complainant's lawyers submitted a notice via the Registrar's registrant contact form inviting the Respondent to contact the Complainant. The Complainant's lawyers received no response.

Screen captures of the Registrar's registrant contact form notice submitted by the Complainant's lawyers are provided as Annex 11.

(m) As detailed below, the Respondent was named as the respondent in numerous previous cases under domain name dispute resolution policies including the INDRP and the UDRP, in which the Panel or Arbitrator ordered the transfer of the relevant trade mark abusive disputed domain names to the Complainant or to the Complainant's related company, WhatsApp LLC. See in this regard:

(i) Instagram, LLC v. GB Apps, INDRP Case No. 1889 (<instapro.ind.in>);

(ii) Instagram, LLC v. GB Apps, Apps.Pk, INDRP Case No. 1890 (<instapro.com.in>);

(iii) WhatsApp LLC v. GB Apps, Apps.Pk, INDRP Case No. 1907 (<gbwhatsapp.ind.in>);

(iv) WhatsApp LLC v. GB Apps, Apps.Pk, INDRP Case No. 1917 (<yowhatsapp.net.in>);

(v) WhatsApp LLC v. GB Apps, Apps.Pk, INDRP Case No. 1930 (<downloadgbwhatsapp.com.in>);



- (vi) Instagram LLC v GB APPS, Apps.Pk, INDRP Case No. 1897 (<instagrampro.net.in>);
- (vii) WhatsApp LLC v GB Apps, Case No. C2024 000422 (<whatsappgb.pk>);
- (viii) WhatsApp LLC v GB Apps, Case No. 2024 0008 (<gbwhatsappdownloads.pk>);
- (ix) WhatsApp LLC v. GB Apps, Apps.Pk, WIPO Case No. DC02024 0043 (<gbwhatsapp.net.co>);
- (x) Instagram, LLC v. GB Apps, Apps.Pk, WIPO Case No. D2024 2405 (<instagramproapp.com>);
- (xi) WhatsApp LLC v. GB Apps, Apps.Pk, WIPO Case No. D2024 2770 (<gbwhatsappup.net>); and
- (xii) WhatsApp LLC v. Apps.Pk, WIPO Case No. D2024 2487 (<gbwhatsapppro.app>);
- (xiii) WhatsApp LLC v. GB Apps, Apps.Pk, WIPO Case No. D2024 4192 (<downloadgbwhatsapp.net>).

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

(8) Respondent's Identity and activities:

Respondent failed to submit their Statement of Defense, so their identity and activities are not clear.

(9) Response by Respondent:

No Response.

(10) Rejoinder by Complainant:

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



(11) Submissions of Documents by Complainant:

Complainant submitted Domain name complaint with pages 1 to 19 comprising words 6601 and annexures from 1 to 16 with pages 89.

As per, the INDRP Rules of Procedure , Rule 4(a) – *The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The appointment letter issued by NIXI via email dated 19.05.2025 (which was sent to all concerned parties) clearly stated the following in the relevant NOTE:

"Please also ensure that the domain complaint word limit and the documents pages numbers limit are as per the limit prescribed under Rule 3 of the INDRP Rules of Procedure."

Despite this clear directive, the Complainant's authorized representatives Mr. David Taylor and Ms. Jane Seager of Hogan Lovells (Paris) LLP, have once again failed to comply with the prescribed word limit. It is also observed that in prior INDRP Arbitration cases, namely Case Nos. 1973 and 1913, the same representatives had submitted complaints exceeding the prescribed word limits. In those instances, the pleadings were accepted by the Arbitral Tribunal (me) in the interest of justice.

However, in the present case, the amended complaint exceeds the permitted word count by approximately 32%, which constitutes a significant deviation from the permissible limit of 5000 words under Rule 4(a) of the Rules.

Accordingly and in the absence of any application seeking prior permission or justification for such deviation, the Arbitral Tribunal hereby declines to accept the Complaint in its present form.



THE CONTENTIONS OF COMPLAINANT

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

Since, as stated in above para (11), the Arbitral Tribunal has declined to accept the Complaint in its present form therefore it does not deem necessary to examine the Complainant's submissions in this regard.

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

Since, as stated in above para (11), the Arbitral Tribunal has declined to accept the Complaint in its present form therefore it does not deem necessary to examine the Complainant's submissions in this regard.

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

Since, as stated in above para (11), the Arbitral Tribunal has declined to accept the Complaint in its present form therefore it does not deem necessary to examine the Complainant's submissions in this regard.

OTHER LEGAL PROCEEDINGS

- (15) Submission of Complainant**

The Complainant is not aware of any other legal proceedings that have been commenced in respect of the Domain Name.

Arbitral Tribunal finds such a submission to be insufficient and expects the Complainant to clearly mention, any other legal proceedings that have been commenced or terminated in connection with or relating to the impugned domain name as per Rule 4b(viii) of the INDRP Rules of Procedure.



REMEDY SOUGHT**(16) Submission of Complainant**

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

DISCUSSION AND FINDINGS

(17) Upon review of the correspondence, the Arbitral Tribunal concludes that it has been duly constituted and appointed in accordance with Rule 5 of the INDRP Rules of Procedure and that the Respondent has been duly notified of the Complaint filed by the Complainant.

(18) Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant has filed a complaint to .IN Registry on the following premises:

- (a) the Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights; and
- (b) the Registrant's has no rights or legitimate interest in respect of the domain name; and
- (c) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose.

Since, as stated in above para (11), the Arbitral Tribunal has declined to accept the Complaint in its present form therefore it does not deem necessary to examine the Complainant's submissions in this regard.



(19) ARBITRAL AWARD

I, **Rajesh Bisaria**, Arbitrator, having duly examined the pleadings and carefully considered the documentary evidence and submissions presented by the parties and having applied judicial mind to the facts, materials & circumstances of the case, do hereby render and publish this Award in accordance with Rules 4(a), 5, 17, and 18 of the .IN Domain Name Dispute Resolution (INDRP) Rules of Procedure and Clause 11 of the .IN Domain Name Dispute Resolution(INDRP) Policy, in the matter concerning the disputed domain name "**instaup.net.in**", as under:

In view of the above and the findings as per above para 11, the Arbitral Tribunal declines to accept the Complaint in its present form. Accordingly, the Complaint is DISMISSED on procedural grounds.

AT has made and signed this Award on 19.07.2025 (Nineteenth Day of July, Two Thousand Twenty-Five).

Place: Bhopal (India)

Date: 19.07.2025



(RAJESH BISARIA)

Arbitrator

