



IN THE MATTER OF THE ARBITRATION ACT 1996 as Amended by  
Arbitration & Conciliation (Amendment) Act, 2015  
and  
INDRP Rules of Procedure;  
and  
.IN Domain Name Dispute Resolution Policy (INDRP)  
and

In the matter of the arbitration between

Instagram, LLC

1601 Willow Road

Menlo Park, California 94025,

United States of America

...Complainant

AND

GB Apps

Apps.PK

District DG Khan Tehsil Taunsa Sharif

Taunsa Sharif, Punjab 32100

Pakistan

...Respondent

in respect of Disputed Domain Name(s):


[instander.net.in]

INDRP Case No; 1896

FINAL AWARD

Date: 21.04.2025

Venue: New Delhi, India

  
ABHINAV S. RAGHUVANSHI  
SOLE ARBITRATOR

## Table of Contents

A. Parties and Their Representative.....	3
B. Domain Names and Registrar.....	4
C. Procedural History.....	4-5
D. Wavier.....	5
E. Complainant Contentions .....	6-10
F. Respondent Contentions.....	10
G. Discussion & Findings.....	10-19
H. Decision.....	20

A. THE PARTIES AND THEIR REPRESENTATIVE

1. Claimant

Instagram, LLC

1601 Willow Road,

Menlo Park, California, 94025

United States of America

Tel: +33 1 53 67 47 47

Fax: +33 1 53 67 47 48

Email: [domaindisputes@hoganlovells.com](mailto:domaindisputes@hoganlovells.com)

Legal Representative

David Taylor/ Jane Seager

Hogan Lovells (Paris) LLP

17 avenue Matignon 75008

Paris, France

Tel: +31 1 53 67 47 47

FAX: +31 1 53 67 47 48

Email: [domaindisputes@hoganlovells.com](mailto:domaindisputes@hoganlovells.com)

2. Respondent

GB Apps

Apps.PK

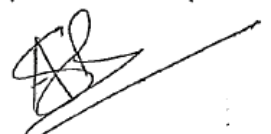
District DG Khan Tehsil Taunsa sharif

Taunsa Sharif, Punjab 32100

Pakistan

Tel: (92).03437689677

Email: [gbapps.pk@gmail.com](mailto:gbapps.pk@gmail.com)

A handwritten signature in black ink, consisting of stylized initials and a long horizontal line extending to the right.

**B. THE DOMAIN NAMES AND REGISTRAR**

The dispute domain name <instander.net.in> is registered through the Registrar of the Dispute Domain Name Dynadot LLC is accredited with the .IN Registry and is listed on the website of the .IN Registry having its Contact Address:

Dynadot LLC

P. O. Box 345

San Mateo CA 94401

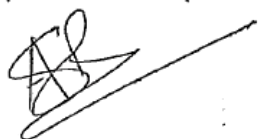
United States

Tel: +1 6502620100

Email: [info@dynadot.com](mailto:info@dynadot.com)

**C. PROCEDURAL HISTORY:**

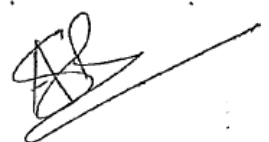
1. Sh. Abhinav S. Raghuvanshi was appointed as the sole Arbitrator on 8<sup>th</sup> January 2025 by the NIXI to act as an Arbitrator in the INDRP case no. 1896 regarding the complaint dated 11<sup>th</sup> September 2025 filed under the INDRP by the Complainant.
2. On 21 January 2025, the Arbitral Tribunal issued the Notice of Arbitration and further directed the Complainant to effect the service into the Respondent and file Affidavit of Service to that effect. The Respondent was given an opportunity to file a response in writing in opposition to the complaint, if any, along with evidence in support of its stand or contention on or within 15 (fifteen) days.
3. The Respondent did not respond to the notice issued on 21 January 2025.
4. Service of the Notice of Arbitration dated 21 January 2025 was affected by the counsel for the complainant and same was intimated to the Tribunal by David Taylor/ Jane Seager, representative of the complainant. The Complaint (with annexures) was sent to the email address of the Respondent shown in the WHOIS details. Consequently, the service of the Notice of Arbitration on the Respondent was done in accordance with Rule (2) of the INDRP Rules.



5. In the interest of Justice, the Arbitral Tribunal under Rule 13 of the INDRP Rules of Procedure directed the Complainant to once again affect service of this notice of Arbitration alongwith copy of Complaint and Annexure, complete in all respects and Complainant serve a copy of this Notice of Arbitration along with the Complaint and Annexures, complete in all respects by email on 11 March 2025 to the Respondent.
6. Even after the Service of Notice of Arbitration twice, the Respondent did not respond.
7. On 4<sup>th</sup> April 2025, Written Arguments were filed by the Complainant in relation to the case of INDRP Case No. 1896.
8. There was a delay of 25 (Twenty-five) days in passing the present award. The delay in passing the present award occurred mainly due to the reasons of non-compliance of basic pleading formalities by the parties. The complaint was filed with defective POA as it was neither notarized nor registered. The complainant was given an opportunity to rectify the same and file the pleadings in accordance with the standard format. However, the complainant took unreasonable amount of time to complete his pleadings. Further, opportunity was given to parties to file evidence in the form of Affidavit but the parties requested for exemption from such legal formalities citing relevant INDRP rules. In crux, parties took extra time to comply with formal requirements of pleadings and ultimately failed to do so and therefore under these circumstances, this tribunal was constrained to give waiver to parties from various legal compliances in terms of INDRP rules

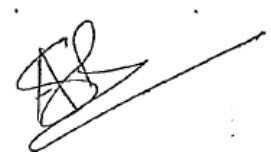
**D. WAVIER:**

This Tribunal waived the requirement for a duly notarized or sworn-in Complaint and Power of Attorney, due to the silence of the INDRP Rules on this point and further due to the limitation of passing the Award within 60 days as stipulated by the INDRP Rules, this requirement was waived off.



E. CONTENTIONS OF COMPLAINANT

- i. 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> has been provided along with the complaint.
- ii. 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 relevant documents to support the claim of complainant being best Brand has been attached with the Complaint.
- iii. 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)<sup>1</sup> and "DIGITAL 2023: PAKISTAN", Datar portal (13 February 2023). Copies of sample press articles about Instagram's launch and rapid growth and international popularity, including in Pakistan, has been attached with the Complaint.
- iv. Reflecting its global reach, the Complainant is also the owner of numerous domain names comprising the INSTAGRAM trade mark under generic Top-Level Domains, for instance, <instagram.com> and <instagram.net>, as well as under various country code Top-Level Domains, such as <instagram.in> and <instagram.org.in> (India), <instagram.us> (United States), <instagram.co.at> (Austria), <instagram.com.br> and



<instagram.net.br> (Brazil), <instagram.org.cn> (China), <instagram.dk> (Denmark), <instagram.ec> (Ecuador), <instagram.ht> (Haiti), <instagram.de> (Germany), <instagram.org.il> (Israel), <instagram.jo> (Jordan), <instagram.mk> (North Macedonia), <instagram.pk> (Pakistan), <instagram.net.ru> (Russian Federation), <instagram.lk> (Sri Lanka), <instagram.ch> (Switzerland), <instagram.ae> (United Arab Emirates) and <instagram.com.vn> (Viet Nam).

- v. Copies of the WhoIs records for a selection of the Complainant's domain names has also been provided with the Complaint.
- vi. The Complainant claims to have made substantial investments to develop a strong presence online by being active on various social-media platforms, including Facebook, Twitter and LinkedIn. These pages are available at the following URLs:

<https://instagram.com/instagram>

<https://facebook.com/instagram>

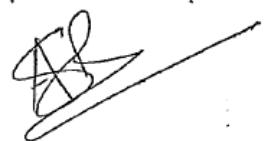
<https://twitter.com/instagram>

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

Screen captures of the Complainant's social-media pages has also been provided alongwith the Complaint.




- vii. The Complainant's further submit that 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:

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

- European Union Trade Mark No. 012111746, , registered on 6 March 2014;
- European Union Trade Mark No. 016039828, , registered on 3 May 2017; and
- Pakistani Trade Mark No. 480680, , registered on 1 August 2019.

Copies of these trade mark registrations for these marks have also been filed alongwith the Complaint.

#### The Domain Name and associated website

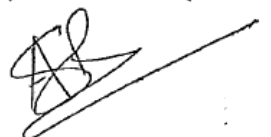
- ix. The Complainant recently came to know about Respondent's registration of the Domain Name, comprising its INSTA trade mark followed by the letters "nder", under the domain extension ".net.in", on 1 September 2023.

Further, the Complainant states that:

- x. The said Domain Name redirects to <https://instanders.net> and a website titled "Instander APK v18.0 Download Official For Android 2024" that purports to offer for download an unauthorized modified APK<sup>2</sup> version of the Instagram application (the Respondent's website). The Respondent's website refers to the APK as "Instander APK, an InstaMod for Android" and claims that:


*"Instagram modified version surpasses the original app by enabling high-quality downloads of photos, videos, IGTV, and reels".*

*"Instander [...] elevates the Instagram experience by offering unique features such as an ad-free interface, and the capability to copy bios, comments, and descriptions. Tailored for Instagram enthusiasts, Instander APK addresses common user concerns with additional beneficial functionalities. Its design prioritizes safety and security, incorporating anti-ban measures to prevent user*

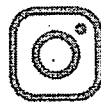
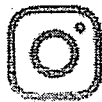


*bans associated with mod usage. Developed by Dmitry Gavrilov, Instander guarantees an exceptional and risk-free browsing adventure."*

Screen shots captured from the Respondent's website and the proof of redirection has been filed along with the Complaint before this Tribunal.

- xi. The Respondent's website features a pink and white colour scheme that is similar to the colour scheme of the Complainant's Instagram platform. The Respondent's website also makes prominent reference to the Complainant's INSTAGRAM trade mark and features the Complainant's Instagram logo and figurative trade mark , as well as a modified version of the Complainant's logos and figurative trade marks, with the same custom font as used in the Complainant's Instagram logo, as follows:

Complainant's figurative trade marks and logos	Image on the Respondent's website
--	-----------------------------------



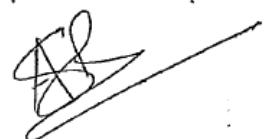
Instagram

Instander

- xii. The Respondent's website features a step-by-step guide to download Instander For Android, and displays the following text at the footer:

*"Instander APK is an InstaMod For Android Device Developed by thedise. Instander Allows us to Download Photos, Videos, Reels and IGTV in High Quality."*

- xiii. The Respondent's website does not feature any disclaimer as to the lack of relationship between the Respondent and the Complainant.
- xiv. On 8 April 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.



Copy of the Registrar's registrant contact form notice as submitted by the Complainant's lawyers is also provided with the Complaint.

xv. Further, the Complainant has brought to the notice of this Tribunal, other cases, where the Respondent was named as the respondent and submits that in the following cases, in each of which the relevant Panel ordered the transfer of the disputed domain name to the complainant, being either the Complainant or the Complainant's related company, WhatsApp LLC:

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

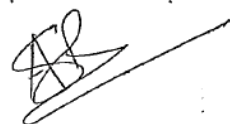
A copy of the decision *Instagram LLC v GB APPS*, INDRP Case No. 1890 (<instapro.com.in>) is provided also provided by the Complainant.

#### F. CONTENTIONS OF RESPONDENT:

Despite service of Arbitration Notice dated 21<sup>st</sup> January 2025 & Arbitration Notice dated 21<sup>st</sup> January 2025 Respondent have failed to file their response- Reply in Opposition to the Complaint. Affidavit of service filed on behalf of the complainant establishes that service has been affected onto the Respondent validly. However, the Tribunal firmly believes that Even in the uncontested matter the petitioner's case must stand on its own legs and it cannot derive any advantage by absence of the respondents therefore, the complainant must still establish each of the three elements as mentioned in clause 4 of the INDRP policy. Tribunal also notes decision of Hon'ble Supreme Court of India in *Sudha Agarwal vs Xth Additional District Judge & Ors* (1996) 6 SCC 332.

#### G. DISCUSSIONS AND FINDINGS

The complainant seeks to rely upon paragraph 4 of the .IN Policy, which reads as "Any Person who considers that a registered domain name



conflicts with his legitimate rights or interests may file a Complaint to the .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;
- b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- c) the Registrant's domain name has been registered or is being used in bad faith."

And the Complainant seeks to assert that each of the aforementioned factors.

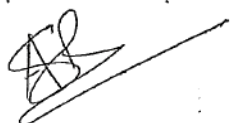
a) Whether The Domain Name <instander.net.in > is confusingly similar to the Complainant's trade mark?

- i. The Domain Name comprises the Complainant's INSTA trade mark, which is an abbreviation of its INSTAGRAM trade mark, followed by the letters "nder", under the domain extension ".net.in".
- ii. The Complainant submits that the addition of the letters "nder" does not prevent a finding of confusing similarity with the Complainant's INSTA trade mark, which remains clearly recognizable in the Domain Name. Reliance is placed upon WIPO Overview 3.0, section 1.8. Reliance is placed upon *Instagram, LLC. v. Whois Agent, Domain Protection Services, Inc. / George Henrique, NOGG, WIPO Case No. D2021-1844* (<instawload.com>):

*"The addition of the letters 'wload' does not prevent a finding of confusing similarity of the disputed domain name with the Complainant's [INSTA] word trademark."*

Reliance is placed upon *Instagram, LLC v. Registration Private, Domains By Proxy, LLC / Aditya DUBEY, WIPO Case No. D2020-1217* (<instamust.com>).

- iii. Moreover, in the circumstances, the Complainant submits that the content of the website at the Domain Name, which purports to offer for download an APK version of the Instagram application called "Inlander APK", confirms the confusing similarity between the INSTA trade mark and the



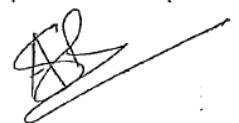
Domain Name. This is because it appears *prima facie* that the Respondent is seeking to target the INSTA trade mark through the disputed domain name; reliance is placed upon WIPO Overview 3.0, section 1.15. Reliance is placed upon *Instagram, LLC v. Domain Administrator*, Reliance is placed upon *PrivacyGuardian.org / shuchang sun*, WIPO Case No. D2021-1990 (<igdig.com>).

- iv. With regard to the ".net.in" domain extension, it is well established under the .IN Policy that such an extension may be disregarded when assessing whether a domain name is identical or confusingly similar to a complainant's trade mark. Reliance is placed upon *Google LLC v Hom Kit Bk Picture*, INDRP/1814, (<simsim.net.in>).

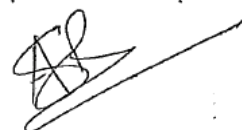
The Complainant therefore submits that the Domain Name is confusingly similar to the Complainant's trade mark in accordance with paragraph 4(a) of the .IN Policy.

The Tribunal has gone through the pleadings/complaint in detail and the evidences attached along with it. This Tribunal further notes that the decision of *Fendi S.r.l. v. Ndiaye Therese*, WIPO Case No. D2018-0179; *Birdies, Inc. v. Registration Private, Domains By Proxy, LLC/FuLi*, WIPO Case No. D2019- 2134, which states that through a catena of orders passed by this Panel and WIPO (under the UDRP), that domain extensions such as ".com" and ".in" are to be ignored while assessing whether a domain name is identical or confusing similar to a trade mark, the disputed domain name is regarded confusingly similar to that mark for the purposes of UDRP standing.. Relying on such precedence and evidences attached, this Tribunal finds that logo as well as trade name is deceptively similar to the well-known and registered Trade name " Insta" of the complainant.

- b) Whether the Respondent has no rights or legitimate interests in respect of the Domain Name?



- i. The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in Paragraph 6 of the .IN Policy to demonstrate rights or legitimate interests in the Domain Name.
- ii. The Respondent is not a licensee of the Complainant. The Respondent is not affiliated with the Complainant in any way and the Complainant has not granted any authorization for the Respondent to make use of its INSTAGRAM or INSTA trademarks, in a domain name or otherwise.
- iii. This Tribunal further notes that prior panels have held that the lack of such prior authorization would be sufficient to establish a *prima facie* case regarding the respondent's lack of rights or legitimate interests in the disputed domain name. Reliance is placed upon *Wacom Co. Ltd. v. Liheng*, INDRP/634, <wacom.in> (finding no legitimate interest where "the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name").
- iv. This Arbitral Tribunal further notes the decision of WIPO Panel's in *Whatsapp Inc. v. Warrick Mulder*, INDRP Case No. 1233, dated July 22, 2020; *Havells India Limited v. Jojo Alappat*, INDRP Case No. 1025, dated October 4, 2018; *Voltas Limited v. Sergi Avaliani*, INDRP Case No. 1257, dated September 22, 2020; and *beIN Media Group L.L.C v. Rima Muliawati* WIPO Case No. D2021-1076 stating that the Respondent is not commonly known by 'Dermi Cool', nor does it conduct any legitimate business under such a name, thereby proving that the Respondent has no rights or legitimate interest in the Disputed Domain Name. It is submitted that the Complainant has necessarily built a *prima facie* case and has proved the illegitimate interest and unlawful rights of the Respondent over the Disputed Domain Name.
- v. This tribunal is also conscious of decisions of Prior panels, which have observed that under the .IN Policy that "where a complainant makes out a *prima facie* case that a respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come

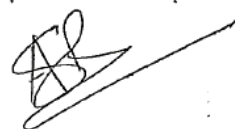


forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element." Reliance is placed upon *Instagram LLC v. Ding RiGuo.*, INDRP/1183 (<instagram.in>). The burden of proof to establish any legitimate interest over the Disputed Domain Name now falls upon the Respondent.

The Complainant has sufficiently demonstrated that the Respondent has no rights or legitimate interests in the Domain Name. <instander.net.in>

c) Whether the Respondent domain name was registered or is being used in absolute bad faith with No bona fide offering of goods or services?

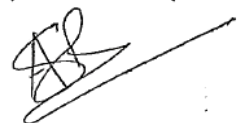
- i. As detailed above, the Respondent's website purports to offer for download an unauthorized modified APK version of the Instagram application, which purports to "elevate the Instagram experience by offering unique features", including "enabling high-quality downloads" of content as well as "an ad-free interface, [...] the ability to copy bios, comments and descriptions [and] anti-ban measures".
- ii. Prior panels have recognized that service providers using a domain name comprising a third-party trade mark may be making a *bona fide* offering of goods or services and thus have a legitimate interest in such domain name. Whether or not this is the case 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):
  - a. the respondent must actually be offering the goods or services at issue;
  - b. the respondent must use the site to sell only the trade marked goods or services;
  - c. the site must accurately and prominently disclose the registrant's relationship with the trade mark holder; and



d. the respondent must not try to "corner the market" in a domain name that reflects the trade mark.

WIPO Overview 3.0, section 2.8. clarifies such a position.

- iii. 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 in relation to a product provided by the Complainant. Rather, the Respondent is making unauthorized use of the Complainant's INSTAGRAM and INSTA trademarks to market its own ancillary services, namely providing an APK version of the Complainant's Instagram application with modified functionality. the Respondent cannot assert that, prior to any notice of this dispute, it was using, or had made demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services in accordance with paragraph 6(a) of the .IN Policy.
- iv. Nevertheless, even if one is to apply the *Oki Data* criteria, the Respondent fails to fulfil the first and third criteria, namely that:
- a. The Respondent's website purports to offer for download a third-party unauthorized version of the 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 Complainant's Instagram application.
  - b. The Respondent's site fails to accurately and prominently disclose the registrant's relationship with the trade mark holder;
- v. The Complainant's INSTAGRAM trade mark is inherently distinctive and well-known throughout the world in connection with its online photo sharing social network, including in Pakistan where the Respondent is based. Similarly, the Complainant's INSTA trade mark is well known throughout the world as an abbreviation of its INSTAGRAM trade mark. In relation to the INSTA trade mark, this Tribunal also notes decision in *Instagram, LLC v. Saint Nicholas*, WIPO Case No. D2022-1260 (<insta-stories.net>) & *Instagram, LLC v. Privacy Protect, LLC*





(PrivacyProtect.org) / Elnur Alizade, WIPO Case No. D2021-1845  
(<insta-shark.com>).

*"The Panel notes the continuous extensive use of the INSTAGRAM mark and presence over the Internet since its launch in 2010, as well as the well-known character of this trademark worldwide, being the INSTA mark also its notorious abbreviation, as has been recognized by previous decisions under the Policy."*

- vi. This Tribunal further notes decision of prior domain name dispute resolution panels, under the .IN Policy, in the matter of - *Instagram LLC v. Osbil Technology Ltd.*, INDRP/1130 (<instagrampanel.in>): which has have recognized the strength and renown of the Complainant's INSTAGRAM trade mark and ordered respondents to transfer the disputed domain names to the Complainant in numerous decisions.

*"The Complainant's INSTAGRAM trade mark is inherently distinctive and has rapidly acquired considerable renown and goodwill worldwide, including in India..."*

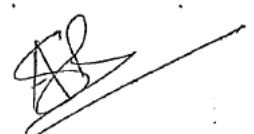
This tribunal further notes the decision in -*Instagram LLC v. Ding RiGuo.*,

The Panel is prepared to accept the Complainant's contention that its mark and the corresponding business is famous.

[...]

*"Based on the submissions and evidence put forth before the Panel, the Panel is of the belief that the Respondent would have definitely known about the Complainant's mark 'Instagram' and its reputation at the time of registering the disputed domain name."*

- vii. Given the Complainant's renown and goodwill worldwide, including in Pakistan, and its trade mark rights in INSTAGRAM and its abbreviation INSTA established long before the registration of the Domain Name in September 2023 , the Respondent could not credibly argue that it did not have knowledge of the Complainant's INSTAGRAM or INSTA trade marks when it registered the Domain Name. This tribunal also notes the decision rendered in the matter of - *Instagram, LLC v Protection of Private Person / Yuri Shemetilo / Olha Shostak*, WIPO Case No. D2022-2832 (<insta-stories.online et al.):



"As indicated above, the Complainant's rights in the INSTA and INSTAGRAM trademarks predate the registration of the Domain Names. This Panel finds that the Respondents were or should have been aware of the Complainant's trademarks at the time of registration of the Domain Names [in December 2020 and December 2021]."

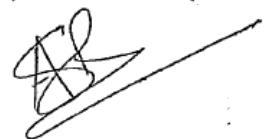
viii. Moreover, the Respondent's use of the Domain Name, to resolve to a website that purports to offer for download an unauthorised APK version of the Complainant's Instagram application, clearly targets the Complainant. The fact that the Respondent's website features repeated references to "Instagram", features the Complainant's Instagram logo and figurative trade mark as well as modified versions of its figurative trademarks, and features a pink and white colour scheme similar to that of the Complainant's Instagram platform, strongly suggests that the Respondent intended to create confusion with the Complainant and its trademarks when registering the Domain Name.

WIPO Overview 3.0, section 3.2.1. and *Lemon Inc. v. saleem abbas, supra* and *Instagram, LLC v. zeeshan khan, WIPO Case No. D2023-3228* (<instagrampro.pro>). Also supports contention of Complainant.

ix. Moreover, as detailed above, the Respondent was named as the respondent in various domain name dispute resolution cases in relation to each of the domain names <instapro.ind.in>, <instapro.com.in>, <whatsappgb.pk>, <gbwhatsapp.net.co> and <gbwhatsapppro.app>, in each of which the relevant Panel ordered transfer of the disputed domain name. The Complainant submits that the Respondent has engaged in a pattern of trade mark-abusive registration targeting the Complainant and its related company, WhatsApp LLC, which amounts to further evidence of the Respondent's bad faith.

This Tribunal finds force and facts in the contentions as raised by the Complainant and accordingly finds that the Respondent registration the Domain Name is in bad faith and same in being used bad faith in accordance with paragraph 4(c) of the Policy.

x. As detailed above, the Respondent is using the Domain Name to purport



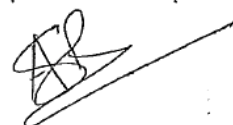
to offer for download an unauthorized modified APK version of the Complainant's Instagram application, breaching the Meta Developer Policies and facilitating breach of the Instagram Terms of Use by Instagram users who use the APK version to, *inter alia*, download Instagram content.

- xi. This Tribunal further notes that Prior panels have found that the use of a domain name to purport to offer an unauthorized APK version of the Complainant's Instagram application amounts to bad faith use; reliance is placed upon *Instagram, LLC v. zeeshan khan*, WIPO Case No. D2023-3228 (<instagrampro.pro>):

*"The Panel finds on the evidence presented that the disputed domain name was registered and used in bad faith. The Respondent has clearly used the Complainant's Mark in the disputed domain name to attract Internet visitors to the Respondent's website to promote its own competitive social media product [called 'Instagram Pro APK'] for commercial gain."*

- xii. Moreover, the APK version of the app offered for download on the Respondent's website may have placed the privacy and security of Instagram users at risk, as downloaded content could be stored and later used for unauthorized purposes by third parties as noted above. Reliance has been placed upon in this regard *Instagram, LLC v. Private WhoIs, Global Domain Privacy Services Inc / Aleksandr Lyahevich, Private Person*, WIPO Case No. D2021-0463 (<instognita.com>).

- xiii. Although commerciality is not expressly required under paragraph 7(c) of the .IN Policy, the Complainant infers that it is more likely than not that the Respondent, or the owner of the third-party APK version of the Instagram application, ultimately derives commercial advantage from the unauthorized use of the Complainant's trade mark in the Domain Name and on the Respondent's website to promote the downloading of the APK version of the app. 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; reliance has been placed upon WIPO Overview 3.0, section 2.5.3.



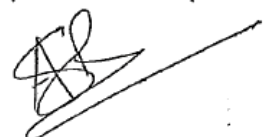
xiv. Given the confusing similarity between the Domain Name and the Complainant's INSTA trade mark, coupled with the Respondent's use of the Domain Name as detailed above, in the absence of any disclaimer regarding the Respondent's (lack of) relationship with the Complainant, Internet users are likely to be misled into believing that the Respondent's website is somehow affiliated with or otherwise endorsed by the Complainant, which it is not. This is particularly the case given that the Respondent's website features the Complainant's logo and figurative trade mark and a similar pink and white colour scheme to that used by the Complainant. The decision in the matter of *-Amazon Technologies Inc. v Mr. Alex Parker, INDRP/1166 (<amazonemi.in>)* supports this contention.

*"The Respondent's registration of the domain name <amazonemi.in> is likely to cause immense confusion and deception and lead the general public into believing that the said domain name enjoys endorsement or authorized by or is in association with and/or originates from the Complainant. WhatsApp Inc. v. Edwin Lizcano, Inversiones Capira SAS, WIPO Case No. D2021-1904 (<installkr.com>).*

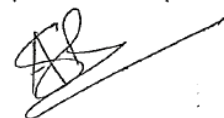
*The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith."*

xv. Furthermore, the APK version of the Instagram application is likely to disrupt the Complainant's business by driving users to a third-party application. Prior UDRP panels have held that such activities amount to use of a domain name in bad faith. Reliance is placed upon *Lemon Inc. v. saleem abbas, supra*.

xvi. Finally, the Respondent's failure to respond to the Complainant's lawyers' Registrar registrant contact form notice is further evidence of the Respondent's bad faith. Reliance is placed upon in this regard *WhatsApp Inc. v Warrick Mulder, INDRP/1233 (<whatsapp.in>)*.



- xvii. In view of the above, the Complainant asserts that the Domain Name was registered and is being used in bad faith in accordance with Paragraph 4(c) of the .IN Policy.
- xviii. The Respondent's website fails to accurately and prominently disclose its lack of relationship with the Complainant. Rather, the Respondent's website prominently displays the Complainant's INSTAGRAM trade mark, together with the Complainant's figurative trade mark and logo, as well as images that are very similar to the Complainant's figurative trademarks and logos, including an image that has a very similar custom font to the font used by the Complainant, and makes use of a pink and white colour scheme that is similar to the 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, which it is not. The tribunal further notes decision in the matter of *Instagram, LLC v. dileep yadav*, WIPO Case No. D2023-3227 (<instagramproapk.com>).
- xix. The Arbitral Tribunal also notes the decision of *HSBC Holdings plc v. Hooman Esmail Zadeh*, INDRP Case no 032, dated March 20, 2007; *Visteon Corporation v. Prahlad S.*, INDRP Case No. 1535, dated May 6, 2022; *Solidium Oy v. Privacy Service Provided by Withheld for Privacy ehf / EstormH Etorntosting, Estorm Programming*, WIPO Case No. D2022-3139; *LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf / Steffen Hain*, WIPO Case No. D2022-0542, that the Respondent is attempting to interfere with the business operations of the Complainant. Past UDRP Panels have consistently found that the mere registration of an identical domain name by an unaffiliated entity can by itself create a presumption of bad faith. From the discussions as held in the preceding para this tribunal is of the opinion that the respondents registration of domain name has been done in bad faith and is being used in bad faith.



## H. DECISION

In the light of foregoing findings, namely, that the domain name is confusingly similar to a mark in which the complainant have rights, that the respondent has no rights or legitimate interests in respect of disputed domain name and that the disputed domain name was registered in bad faith and being used in bad faith in accordance with the policy and rules, the arbitrator orders that domain name <instander.net.in > be transferred to the complainant.

Place: New Delhi

Date: 21.04.2025



(Abhinav S. Raghuvanshi)

Sole Arbitrator

The Arbitral Tribunal