



सत्यमेव जयते

## e-Stamp

Signature : .....

ACC Name : Jay Prakash Tyagi

ACC Code : UP14015404

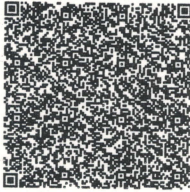
ACC Address : Indra, Gautam Buddh Nagar

Mobile No. : 9871591299

License No. : 187

**Certificate No.** : IN-UP21767909460632X  
**Certificate Issued Date** : 27-Feb-2025 12:36 PM  
**Account Reference** : NEWIMPACC (SV)/ up14015404/ GAUTAMBUDDH NAGAR 1/ UP-GBN  
**Unique Doc. Reference** : SUBIN-UPUP1401540440699434328283X  
**Purchased by** : VARUN SINGH  
**Description of Document** : Article 12 Award  
**Property Description** : Not Applicable  
**Consideration Price (Rs.)** :  
**First Party** : VARUN SINGH  
**Second Party** : Not Applicable  
**Stamp Duty Paid By** : VARUN SINGH  
**Stamp Duty Amount(Rs.)** : 100  
 (One Hundred only)

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₹100

Please write or type below this line

IN-UP21767909460632X

BEFORE MR. VARUN SINGH, ADVOCATE,

SOLE ARBITRATOR

INDRP CASE NO. 1917

**IN THE MATTER OF:-**

Arbitration under the .IN Domain name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India which sets out the legal framework for resolution of dispute in connection with .IN domain name, and the INDRP Rules of Procedure

Varun Singh

**Statutory Alert:**

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

**AND IN THE MATTER OF:-**

Dispute relating to the domain name <yowhatsapp.net.in >

**AND IN THE MATTER OF:-**

**WhatsApp LLC**

1601 Willow Road

Menlo Park, California 94025

United States of America

.....Complainant

Versus

**GB Apps**

**Apps.Pk**

District DG Khan Tehsil Taunsa sharif

Taunsa Sharif, Punjab 32100

Pakistan

.....Respondent

**AWARD**

**03.03.2025**

1. The present arbitration proceedings are initiated under and in accordance with the INDRP which was adopted by the National Internet Exchange of India (NIXI) which governs the dispute in connection with .IN domain name, and the INDRP Rules of Procedure.
2. The Registrant/Respondent has registered the <yowhatsapp.net.in> (hereinafter 'disputed domain name') with the domain name Registrar duly accredited with the NIXI i.e. Dynadot LLC since 01 September, 2023.

**Procedural history**

3. The consent of the Arbitrator was sought for in the present matter by the NIXI vide email dated 11.01.2025 and the Arbitrator gave his consent along with his statement of

*Vasim Singh*

acceptance and declaration of impartiality vide his email dated 11.01.2025.

4. I was appointed as an Arbitrator by the NIXI in the present matter vide their email dated 21.01.2025 which email containing the complaint and all relevant documents was marked to the Respondent as well. The Arbitrator issued a notice dated 22.01.2025 under Rule 5(c) of INDRP Rules of Procedure whereby the Respondent was directed to file its reply to the Complaint till 20.02.2025. The said notice issued by the present Arbitrator was marked via email to the Complainant and to the Respondent, which email did not bounce back. The Complainant was also directed, in the said Notice, to serve a copy of the complaint to the Respondent. The Complainant vide its email dated 22.01.2025 served the complaint along with its Annexures to the Respondent. The said email was marked to Arbitrator as well. Therefore, it is safe to hold that the Respondent was duly served with the present complaint and is aware of the present proceedings.
5. Rule 5(d) of the INDRP Rules of Procedure states that the date of commencement of the arbitration proceeding shall be the date on which the arbitrator issues notice to the Respondent. Therefore, the date of commencement of arbitration in the present case is 22.01.2025. Rule 5(e) of the INDRP Rules of Procedure states that an Arbitrator shall pass an award within a period of 60 days from the date of commencement of the arbitration proceeding.

*Varun Singh*

### **Issues for consideration**

6. Paragraph 4 of the INDRP provides the grounds on which a Complaint can be filed by the aggrieved Complainant who considers that a registered domain name conflicts with his/her legitimate rights or interests on the following grounds:

(a) the Registrant's domain name is identical and/or confusingly similar to a Name, Trademark or Service Mark etc. in which the Complainant has rights; and

(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 either in bad faith or for illegal/unlawful purpose.

### **Contention of the Parties**

7. The complainant states that it is a provider of one of the world's most popular mobile messaging application. The complainant states that its main website is [www.whatsapp.com](http://www.whatsapp.com) which allows internet users to access its messaging platform. It is further stated that the said application was launched in 2009 and has over 2 billion monthly active users worldwide as of 2023. It is stated that the WhatsApp has acquired reputation and goodwill worldwide, including in Pakistan, where the Respondent appears to be based. The complainant states that that it is the owner of multiple domain names comprising WhatsApp Trade Mark, including various generic top-level domains (gTLDs) as well as many country code top-level domains (ccTLDs). The Complainant further states that it is the registered proprietor of the trademark WhatsApp in United

States, European Union, India, and Pakistan. The Complainant also states that it is the registered proprietor of the figurative trademark in India and in European Union. The Complainant further states that it was recently made aware of the domain name comprising its WHATSAPP trade mark proceeded by prefix 'yo' under the domain extension '.net.in' registered on 1 September 2023. It is further stated that the disputed domain name resolves to a website titled 'Yo WhatsApp APK v9.93 Download (Official) Jan Latest Version 2024' that purports to offer for download an unauthorized modified APK version of the Complainant's WhatsApp application. It is further stated in the complaint that the Respondent's website features green white colour scheme which is similar to the green and white colour scheme of the complainant's WhatsApp platform. The complainant further states that the Complainant and its related company i.e. Instagram LLC had filed cases against the Respondent for the transfer of the other disputed domains and a number of orders have been passed to transfer the disputed domain names.

8. The Respondent has not filed any reply to the Complaint filed by the Complainant.

**Respondent's disputed domain name similar to Complainant's trade mark**

9. The Complainant was founded in the year 2009 and the trade name of the Complainant prominently includes the word 'Whatsapp'. The Complainant's website [www.whatsapp.com](http://www.whatsapp.com) provides a messaging platform which people world over are using. The Complainant is owner of

multiple domain names with various gTLDs and ccTLDs including the domain name <whatsapp.com>. The Complainant has wide presence globally and its official pages on social media websites such as X.com, facebook, youtube are widely acknowledged. Furthermore, the Complainant is the registered proprietor of the trade mark 'WHATSAPP' in USA, European Union, India, and Pakistan. In India the trade mark 'WHATSAPP' is registered since 24 May, 2011, under trade mark no. 2149059. The disputed domain is registered much later in 2023.

10. It is well established that the specific top-level domain such as '.com', '.net', '.in' etc does not affect the domain name for the purpose of determining whether it is identical or confusingly similar (*Relevant decision:- Rollerblade, Inc. v. Chris McCrady*<sup>1</sup>). Therefore, TLD '.net.in' is to be disregarded while comparing the disputed domain name with the trade mark of the Complainant. Furthermore, a mere prefix 'yo' to the trade mark of the Complainant 'WHATSAPP' does not make the disputed domain name distinct from the trade mark of the Complainant (*Relevant decision:-WhatsApp, Inc V. Nasser Bahaj- <ogwhatsapp.org> and <whatsapp-plus.org>*<sup>2</sup>).
11. Furthermore, section 28 of the Trade marks Act, 1999 confers rights to the Complainant by registration of the trade mark 'WHATSAPP' including the right to exclusive use the said trade mark.

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<sup>1</sup> WIPO Case No. D2000-0429

<sup>2</sup> WIPO Case No. 2016-0581

Vasun Singh

12. Therefore, it is apparent that the Respondent's domain name, by entirely using "WHATSAPP," is similar to the Complainant's registered trademark.
13. The disputed domain name <yowhatsapp.net.in > is not only similar to the registered trade mark of the Complainant but also to the registered domain name of the Complainant and to the trade name of the Complainant. Therefore, The Complainant has established its case under paragraph 4 (a) of the INDRP.

**Respondent has no rights or legitimate interests in disputed domain name**

14. The website of the Respondent purports to offer for download an unauthorized modified APK version of the Complainant's WhatsApp application. The webpage that comes after visiting the disputed domain name states "*Yo WhatsApp is a different version of the regular WhatsApp, packed with lots of cool extras not in the original app*". The Complainant has not authorized the Respondent to use its application. The Respondent is certainly not known by the domain name. The website of the Respondent displays a messaging mark in green colour which is similar to the figurative trade mark of the Complainant. The website of the Respondent hopelessly attempts to make an association with the Complainant's application which can never be termed as legitimate use of the disputed domain name.
15. Furthermore, the webpage of the disputed domain name does not show that the Respondent has done any preparations to use the said domain name in connection with a bonafide offering of its goods or services.

*Vaishu Singh*

16. There are previous decisions against the Respondent wherein the trade mark 'WHATSAPP' was used by the Respondent and the domain name was transferred to the Complainant (*Relevant decisions: - WhatsApp LLC V. Apps.Pk – WIPO Case No. D2024-2487 <gbwhatsapppro.app> & WhatsApp LLC V. GB Apps, Apps.Pk – WIPO Case No. DCO2024-0043 <gbwhatsapp.net.co>*). The same goes to demonstrate that the activities of the Respondent, including the registration and using of the disputed domain name, are designed to cause loss of business of the Complainant.
17. Therefore, the Respondent/Registrant has no rights or legitimate interests in respect of the disputed domain name. The Complainant has established its case under paragraph 4 (b) of the INDRP.

### **Bad Faith**

18. The Respondent registered the disputed domain name in a bad faith attempt to confuse Internet users as to a possible association between the disputed domain name and the Complainant. Therefore, the usage of the impugned domain name is in bad faith.
19. The use and registration of the disputed domain name is in bad faith because Respondent is seeking commercial gain from its use of the impugned domain name by establishing a website with a domain name which comprises the trade mark of the Complainant i.e. 'WHATSAPP' in its entirety and that the disputed domain name competes with Complainant's

*Varun Singh*



services. (*Relevant decision:- See Sodexo V. Domain Privacy, Above.com Domain Privacy*<sup>3</sup>).

20. The APK version of the WhatsApp application is being promoted in the disputed domain name by driving users to away from the business of the Complainant and such activities are clearly meant to disrupt the business of the Complainant (*Relevant decision:- Whats App LLC V Du Chengfu*<sup>4</sup>). Therefore, the registration of the disputed domain name is in the bad faith.
21. The Respondent, as mentioned above, have numerous domain names wherein the trade name and trade mark of the Complainant i.e. 'WHATSAPP' prominently appears and they have been directed to be transferred to the Complainant.
22. In view of foregoing, it is apparent that the registration of the disputed domain name is in bad faith to hurt the commercial activity of the Complainant. The Complainant has established its case under paragraph 4 (c) of the INDRP.

### **Decision**

23. In view of foregoing, it is ordered that the impugned domain name <yowhatsapp.net.in> be transferred to the Complainant. Parties are ordered to bear the cost of the present proceedings.

*Varun Singh*

**(VARUN SINGH)**  
Sole Arbitrator

**Varun Singh**

**Advocate-on Record**

1203, Tower-8, SDS NRI Residency,  
GH 04/A, Sector-45, Noida,  
Uttar Pradesh-201303

<sup>3</sup> WIPO Case No. D2021-0592

<sup>4</sup> WIPO Case No. DBZ2024-001