

ADJUDICATOR DECISION

CASE NUMBER:	ZA2013-0123
DECISION DATE:	23 February 2013
DOMAIN NAME	alamocar.co.za
THE DOMAIN NAME REGISTRANT:	Wang Liqun
REGISTRANT'S LEGAL COUNSEL:	N/A
THE COMPLAINANT:	Vanguard Trademark Holdings USA, LLC
COMPLAINANT'S LEGAL COUNSEL:	Spoor & Fisher
THE 2 nd LEVEL DOMAIN NAME ADMINISTRATOR:	UniForum SA (CO.ZA Administrators)

1 Procedural History

- a) The Dispute was filed with the South African Institute of Intellectual Property Law (the "SAIPL") on **28 December 2012**. On **3 January 2013** the SAIPL transmitted by email to UniForum SA a request for the registry to suspend the domain name at issue, and on **3 January 2013** UniForum SA confirmed that the domain name had indeed been suspended. The SAIPL verified that the Dispute satisfied the formal requirements of the .ZA Alternate Dispute Resolution Regulations (the "Regulations"), and the SAIPL's Supplementary Procedure.
- b) In accordance with the Regulations, the SAIPL formally notified the Registrant of the commencement of the Dispute on **7 January 2013**. In accordance with the Regulations the due date for the Registrant's Response was **4 February 2013**. The Registrant did not submit any response, and accordingly, the SAIPL notified the Registrant of its default on **5 February 2013**.
- c) The SAIPL appointed **Vanessa Lawrance** as the Adjudicator in this matter on **15 February 2013**. The Adjudicator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the SAIPL to ensure compliance with the Regulations and Supplementary Procedure.

2 Factual Background

- 2.1 The Complainant in this matter is Vanguard Trademark Holdings USA, LLC, a Limited Liability Company, existing under the laws of the State of Delaware, United States of America.
- 2.2 The Complainant is the owner of the trade mark ALAMO, which it has, since 1974, used in respect of car rental services in more than 42 countries worldwide.

2.3 The Complainant is the proprietor, in South Africa, of Trade Mark Registration No. 91/10916 ALAMO, registered in class 39 in respect of "vehicle rental and leasing services".

2.4 The disputed domain name, alamocar.co.za, was registered on 8 August 2012 in the name of Wang Liqun.

3 Parties' Contentions

3.1 Complainant

- a) The Complainant contents that it is the proprietor of prior statutory trade mark rights in the trade mark ALAMO in South Africa.
- b) The Complainant contents that the disputed name is "highly similar" (being visually, phonetically and conceptually similar) to its ALAMO trade mark: the only difference is the addition of the generic word "car", which points to the primary business carried out under the ALAMO trade mark.
- c) Hence the Complainant contents that the disputed domain name is an abusive domain name in the hands of the Registrant, and that the disputed domain name should be transferred to the Complainant.

3.2 Registrant

- a) The Registrant did not respond to the Complaint.

4 Discussion and Findings

- a) In order to succeed in a Complaint based on an abusive registration, the Complainant must prove that the disputed domain name was either registered in a manner which, at the time of registration, took unfair advantage of or was unfairly detrimental to the Complainant's rights, or that the disputed domain name has been used in a manner that takes unfair

advantage or is unfairly detrimental to the Complainant's rights.

4.1 Complainant's Rights

4.1.1 The Complainant has submitted that it has registered rights in terms of the South African Trade Marks Act in its ALAMO trade mark.

4.1.2 The Registrant has not challenged the Complainant's claim to rights, as it has not filed a Response to the Complaint.

4.2 Abusive Registration

4.2.1 The Complainant has established that the disputed domain name is substantially identical to the ALAMO trade mark, in which it has rights.

4.2.2 The undisputed facts establish that registration, by the Registrant, of the disputed domain name, at the very least prevents the Complainant from exercising its rights and disrupts unfairly the business of the Complainant.

4.2.3 For the reasons stated above, it appears, *prima facie*, that the disputed domain name is an abusive registration (Regulation 4(1)).

4.3 Offensive Registration

4.3.1 The registration is contrary to law, *contra bonos mores* or is likely to give offence to any class of persons

5. Decision

5.1 For all the foregoing reasons, in accordance with Regulation 9, the Adjudicator orders that the domain name, *alamocar.co.za* be transferred to the Complainant.

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VANESSA LAWRENCE

SAIPL SENIOR ADJUDICATOR

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