

## ADJUDICATOR DECISION

CASE NUMBER:	<b>ZA2015-0222</b>
DECISION DATE:	<b>27 JANUARY 2016</b>
DOMAIN NAME	<b>SOULFOOD.CO.ZA</b>
THE DOMAIN NAME REGISTRANT:	<b>AMANGUNI SOLUTIONS</b>
REGISTRANT'S LEGAL COUNSEL:	<b>NONE</b>
THE COMPLAINANT:	<b>GOLDEN FRIED CHICKEN (PTY) LTD</b>
COMPLAINANT'S LEGAL COUNSEL:	<b>RON WEELDON ATTORNEYS</b>
2 <sup>nd</sup> LEVEL ADMINISTRATOR:	<b>ZA CENTRAL REGISTRY (CO.ZA )</b>

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## 1 Procedural History

- a) The Dispute was filed with the South African Institute of Intellectual Property Law (the “SAIPL”) on **20 November 2015**. 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 **24 November 2015**. In accordance with the Regulations the due date for the Registrant’s Response was **23 December 2015**. The Registrant did not submit any response, and accordingly, the SAIPL notified the Registrant of its default on **5 January 2016**.
- c) The SAIPL appointed **Vanessa Lawrance** as the Adjudicator in this matter on **15 January 2016**. 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 Registrant registered the domain on 5 November 2010.
- 2.2 The Complainant is the proprietor of the trade mark SOUL FOOD in class 29 (registration number 2001/05596), class 30 (registration number 2001/05597) and class 43 (registration number 2001/05601).

## 3 Parties’ Contentions

### 3.1 Complainant

- a) The Complainant has since 1981 built up a considerable reputation and has spent considerable time, effort and money in marketing, advertising and promoting its business, and since 2001 the trade mark SOUL FOOD.
- b) The Complainant started the business in 1981, opened the first two franchises in 1982 and has since 1991 grown to the extent that by 2013 there

were 247 outlets in South Africa and 12 outlets in Botswana.

- c) The disputed domain name is similar to the registered trademarks of the Complainant.
- d) The registration of the domain name soulfood.co.za is an abusive registration.
- e) The Registrant is only making use of the disputed domain as a link to redirect visitors to the domain and to a website unrelated to the Complainant.

### **3.2 Registrant**

- a) The Registrant has not filed a reply, and the adjudicator has therefore been persuaded to accept the submissions made by the Complainant, as they do not seem to be unreasonable.

## **4 Discussion and Findings**

- a) The disputed domain name soulfood.co.za is confusingly similar to the registered trademarks of the Complainant.
- b) The Complainant has, since 1981, built up a reputation, and has invested considerable time, effort and money in promoting the business, and the SOUL FOOD trademarks.
- c) The Complainant has made prior use of the name SOUL FOOD.
- d) The Registrant is not using the domain name for any other purpose than to redirect visitors to a website unrelated to the Complainant

### **4.1 Complainant's Rights**

- 4.1.1 For the reasons stated the Complainant has rights in respect of the trade marks SOUL FOOD.

## 4.2 Abusive Registration

4.2.1 The disputed domain name was registered in a manner and at a time which takes unfair advantage of the substantial repute and reputation of the Complainant, and its vested and registered rights in the trademark SOUL FOOD, and is used solely by the Registrant to redirect visitors to a website unrelated to the Complainant.

## 5. Decision

5.1 For all the reasons stated the Complainant has made out a case for the relief that it seeks, and the Registrant is ordered to transfer the domain name soulfood.co.za to the Complainant.

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**VANESSA LAWRENCE**  
SAIIPL SENIOR ADJUDICATOR  
[www.DomainDisputes.co.za](http://www.DomainDisputes.co.za)