

Decision

[ZA2016-0229]

.ZA ALTERNATE DISPUTE RESOLUTION
REGULATIONS (GG29405)

ADJUDICATOR DECISION

CASE NUMBER:	ZA2016-0229
DECISION DATE:	19 February 2016
DOMAIN NAMES:	picknpayexpress.co.za
THE DOMAIN NAME REGISTRANT:	Kameshen Moodley
REGISTRANT'S LEGAL COUNSEL:	None
THE COMPLAINANT:	Pick N Pay Retailers (Pty) Ltd
COMPLAINANT'S LEGAL COUNSEL:	Adams & Adams
2 nd LEVEL ADMINISTRATOR:	ZA Central Registry (co.za)

1. Procedural history

- 1.1 The domain in this complaint is <**picknpayexpress.co.za**>, which was registered on **5 September 2012**. The Registrant is Kameshen Moodley, of KwaZulu Natal.
- 1.2 The Complainant is **Pick N Pay Retailers (Pty) Ltd**, whose principal place of business is at Pick n Pay Centre, Corner Main and Campground Roads, Claremont, Cape Town.
- 1.3 This dispute was filed with the South African Institute of Intellectual Property Law (“SAIPL”), on **5 January 2016**. On the same day SAIPL emailed a request to ZA Central Registry for the registry to suspend the domain name, on **6 January 2016** they confirmed the suspension.
- 1.4 In accordance with the Regulations, the SAIPL formally notified the Registrant of the commencement of the Dispute on **6 January 2016**. The due date for the Registrant’s Response was **3 February 2016**. The Registrant did not submit a Response, and notification of his default was posted on **4 February 2016**.
- 1.5 The SAIPL appointed **Adv Owen Salmon SC** as the Adjudicator in this matter on **9 February 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 Discussion and Findings

2.1 The Complainant is the registered proprietor of, *inter alia*, the trade mark Pick n Pay Express, dating from 2008. This is identical to the domain in question, and therefore the Complainant has rights as contemplated by Regulation 3.

2.2 The Registrant has not filed a response and therefore does not discharge the onus cast by Regulation 5(c), of showing that the domain is not abusive.

3 Decision

For the foregoing reasons the Adjudicator upholds the Complaint. The domain is abusive. In accordance with Regulation 9 the Adjudicator orders that the domain <picknpayexpress.co.za> be transferred to the Complainant.

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ADV OWEN SALMON SC
SAIIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za