

Decision

ZA2016-0252

**.ZA ALTERNATE DISPUTE RESOLUTION
REGULATIONS (GG29405)**

ADJUDICATOR DECISION

CASE NUMBER:	ZA2016-0252
DECISION DATE:	4 January 2017
DOMAIN NAME	youwinlaw.co.za
THE DOMAIN NAME REGISTRANT:	Mr Alex Minja
REGISTRANT'S LEGAL COUNSEL:	Mzamo Attorneys, Johannesburg
THE COMPLAINANT:	Trax IT Solutions (Pty) Ltd
COMPLAINANT'S LEGAL COUNSEL:	Witz, Calicchio, Isakow & Shapiro, Johannesburg
2 nd LEVEL ADMINISTRATOR:	ZA Central Registry (CO.ZA)

1 Procedural History

- a) The Dispute was filed with the South African Institute of Intellectual Property Law (the "SAIPL") on **10 November 2016**. On **10 November 2016** the SAIPL transmitted by email to the ZA Central Registry (ZACR) a request for the registry to suspend the domain name(s) at issue, and on **10 November 2016** ZACR 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 **11 November 2016**. In accordance with the Regulations the due date for the Registrant's Response was **9 December 2016**. The Registrant filed its Response on **7 December 2016**.
- c) In accordance with the Regulations, the Complainant was due to file its Reply by **15 December 2016**. The Complainant filed its Reply on **14 December 2016**. In accordance with the Regulations, the SAIPL formally notified the Registrant of the Complainant's Reply on **14 December 2016**.
- d) The SAIPL appointed **Andre van der Merwe** as the Adjudicator in this matter on **19 December 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 By 1995, the directors of the Complainant had developed software being a legal accounting solution, which they called WINLAW, a name/trademark that they adopted for their aforementioned software business. Since that date, the Complainant has sold and marketed its WINLAW product to the

legal profession in South Africa. In support of this, the Complainant has submitted annual income figures for this business and its advertising and marketing spend for the last 6 years, and has indicated that it has about 900 law firms in South Africa as registered users of its WINLAW software.

- 2.2 The Complainant is the owner of the domain name registration winlaw.co.za which was registered on 30 September 2014.
- 2.3 On 20 January 2016 the Complainant applied to register the trademark WINLAW in South Africa under trademark application number 2016/01386 in class 9 and application number 2013/01387 in class 42, respectively. These trademark applications have not yet proceeded to acceptance or registration. Accordingly the Adjudicator will not consider these further in respect of this Complaint.
- 2.4 During 2015 the Complainant became aware of the disputed domain name registration viz youwinlaw.co.za owned by the Registrant, and on 24 August 2016, the Complainant's attorneys addressed a letter of demand, based on the Complainant's common law rights, to the Registrant, requiring that the disputed domain name be transferred to the Complainant, that the website be removed, and that the Registrant cease all use of YOUWINLAW including as a domain name. Despite reminders sent, the Registrant failed to respond to the above demands. Prior to the above letter of demand, another firm of attorneys on behalf of the Complainant had on 10 April 2015 sent an earlier letter of demand, also based on the Complainant's common law rights, to the Registrant, requiring the Registrant to cease using the YOUWINLAW product and to remove the YOUWINLAW product from its website. The Registrant's attorneys had on 16 April 2015 responded to this letter of demand by refusing to accede to any of the demands made on behalf of the Complainant.
- 2.5 The Registrant and his company have been in operation since 2002, in selling IT solutions including computer hardware and software to the public. During February 2015, and after conducting comprehensive research in the

local and international market in respect of legal office software, the Registrant had contacted a company viz YouWinLaw based in the USA and Switzerland, to resell their software in South Africa (and Africa), that is aimed at law firms and assists with case management, document filing, and billing of clients. The Registrant and his company were given permission to sell the YouWinLaw product, and after testing the local market with this product, they proceeded to sell this product in South Africa during 2015.

- 2.6 The Registrant was also given permission by the YouWinLaw company to register the disputed domain name. On 12 February 2015 he therefore proceeded to register the disputed domain name.

3 Parties' Contentions

3.1 Complainant

- a) The Complainant contends that, through its sales and promotion of its WINLAW software, it has over about 20 years developed a substantial repute or reputation, and hence goodwill, in South Africa in terms of the common law, in and to its WINLAW name and trademark. The Complainant also contends that it had developed the aforementioned common law rights before the date of registration of the disputed domain name viz before 12 February 2015.
- b) The Complainant contends that, on a comparison of the two terms/names WINLAW and YOUWINLAW, these are substantially similar, with the only difference being the pronoun YOU – and that the addition of the word YOU does not meaningfully distinguish the disputed domain name from the Complainant's WINLAW name, trademark and domain name. The Complainant contends that the significant portion of the disputed domain name is the Complainant's WINLAW mark. In support of its contentions in this regard, the Complainant has referred to various foreign domain name decisions.

- c) The Complainant contends that, because of such name similarity, and that the respective products are both software products, and that these products are sold to, and used by, law firms in South Africa - and because there is an overlap of functionality of these products - there is a likelihood of confusion. Actual confusion has already arisen. Hence the Complainant contends that the Registrant is able to unlawfully and unfairly benefit from the Complainant's substantial reputation and goodwill in the marketplace. Accordingly the Complainant contends that the disputed domain name is being used in a way that infringes the Complainant's common law rights.
- d) The Complainant contends that the disputed domain name takes unfair advantage of, and is unfairly detrimental to the Complainant's rights.
- e) Accordingly the Complainant contends that the disputed domain name is an abusive registration in the hands of the Registrant.

3.2 Registrant

- a) The Registrant contends that he and his company were not aware of the existence of the Complainant's WINLAW legal software, or of its winlaw.co.za domain name, during or about February 2015 viz when the disputed domain name was registered and when he and his company decided to start selling the YouWinLaw software product in South Africa.
- b) The Registrant contends that he had registered the disputed domain name in good faith, based on the YouWinLaw product that his company was planning to sell in South Africa.
- c) The Registrant contends that there is no similarity or confusion between the respective products by functionality – viz legal billing as compared to legal accounting and software.

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- d) The Registrant also contends that there is no similarity or confusion between the names of the respective products – viz WINLAW as compared to YOUWINLAW. He also contends that the name and trademark WINLAW has been widely used previously for legal software in various countries, and that hence this term was not exclusively coined by the Complainant. Three records apparently taken from the USA Trade Marks Office are provided in support of this contention.
- e) The Registrant contends that a negative inference can be drawn from the fact that the Complainant has not used its domain name winlaw.co.za, and that the Complainant has been trading as Legal Interact and using that name as its trading/business domain name viz legalinteract.co.za (which was registered on 5 March 2001).
- f) The Registrant contends that the Complainant has not provided sufficient evidence that it has built up a protectable reputation in its WINLAW name, and that evidence of that repute is required. He also contends that the name/trademark WINLAW is regarded as a common phrase or term that describes legal software that has been used previously in various countries.
- g) The Registrant contends that it cannot be correct that the disputed domain name disrupts the business of the Complainant.
- h) Finally the Registrant contends that it therefore cannot be correct that the disputed domain name is an abusive registration in the hands of the Registrant (essentially) because he was not aware of the existence of the Complainant's winlaw.co.za domain name.

4 Discussion and Findings

- a) In order to make a finding that the disputed domain name is an abusive registration, the Adjudicator is required to find that the Complainant has

proved, on a balance of probabilities, in terms of Regulation 3(2), that the required elements in terms of Regulation 3(1)(a) are present viz:

- i) that the Complainant has rights in respect of a name or mark
- ii) that is identical or similar to the disputed domain name; and
- iii) that, in the hands of the Registrant, the disputed domain name is an abusive registration.

An abusive registration is defined in the definition section viz in Regulation 1, to mean a domain name which either –

- a) was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of, or was unfairly detrimental to, the Complainant's rights; or
- b) has been used in a manner that takes unfair advantage of, or is unfairly detrimental to, the Complainant's rights.

SUBSTANTIVE ASPECTS

Turning to the substantive aspects of this complaint, the Adjudicator has carefully perused the Complaint, the Response, and the Reply filed herein, and has fully considered the facts and contentions set out therein.

RIGHTS IN RESPECT OF A NAME OR MARK

In terms of Regulation 1 the term "rights" is widely defined. The Regulation states that "rights" and "registered rights" include intellectual property rights, commercial, cultural, linguistic, religious and personal rights protected under South African law but is not limited thereto.

As has been decided by the appeal decisions in www.seido.co.za (ZA2009-0030) and www.xnets.co.za (ZA2011-0077), the notion of "rights" for the purposes of Regulation 3(1)(a) is not trammelled by trade mark jurisprudence. It is also a matter of *locus standi* in order to make sure that the person who complains is someone with a proper interest in the complaint. The threshold in this regard should be fairly low.

DOES THE COMPLAINANT HAVE RIGHTS?

The first element that the Adjudicator needs to establish is whether, as set

out above, and in terms of Regulation 3(1)(a), on a balance of probabilities, the Complainant has rights in respect of the name or trademark WINLAW. This will also determine whether the Complainant has the necessary *locus standi* to bring this Complaint. The Complainant contends that it has rights in and to the name and mark WINLAW while the Registrant denies this.

The Complainant has shown that it has enjoyed considerable sales of its WINLAW software over the last approximately 20 years namely to about 900 law firms in South Africa. It asserts that it has also expended considerable resources on developing, supporting and promoting its WINLAW software which has become known to, and is associated by, a substantial number of the legal profession, with the Complainant.

Accordingly the Complainant contends that, by virtue of its aforementioned extensive use viz sales and promotion of the name or trademark WINLAW, and its associated software products in South Africa, it has developed a substantial repute or reputation, and hence goodwill, in terms of the common law.

Such reputation, as forming part of the goodwill, stemming from that reputation, in respect of its name or trademark WINLAW, could be damaged by means of unlawful competition or more particularly passing off under the common law by another party wrongly representing that it is, or is associated with, or part of, the Complainant and its business.

It was pointed out in the South African domain name decision ZA2007-0003 that the registration and adoption of a domain name being a name or mark that enjoys a reputation, of another person, could readily amount to passing off under the common law.

The Complainant therefore claims to have justifiable and justiciable rights under the common law in respect of its name and trademark WINLAW viz rights that can be enforced against others who infringe or would be likely to damage such rights.

In support of the above, the Adjudicator refers to the above-mentioned

South African domain name decision ZA2007-0003 at page 9; and the textbook Webster and Page: South African Law of Trade Marks, Fourth Edition, at paragraphs 15.5 and 15.7 and the South African and foreign court decisions cited therein.

In disputing the above history and contentions of the Complainant, the Registrant has *inter alia* attacked the uniqueness or distinctiveness of the name and trademark WINLAW in the hands of the Complainant, and has contended firstly that WINLAW “was not exclusively coined by the Complainant”, and secondly that it has been in common use previously for many years in various (foreign) countries.

It is clearly accepted in trademark law that a trademark is a purely territorial concept, and hence that there is generally speaking nothing to prevent a person from adopting or asserting a proprietary right in a trademark to which no one else has in the same territory asserted a similar right. In the Adjudicator’s view this applies to the name and trademark WINLAW as adopted by the Complainant, and hence that its adoption of WINLAW was permissible and valid in the relevant circumstances. By way of confirmation hereof, there is no indication from either party herein that another party had used the term WINLAW, or could claim better or stronger rights, in South Africa in or to the term WINLAW prior to 1995. In support of the above, see in this regard the textbook Webster and Page *supra* at paragraph 5.4 and the South African and foreign court decisions cited therein.

The second contention by the Registrant in this regard is that: “The combination of the words WIN and LAW is regarded as a common phrase or noun that refers to legal softwares (sic!) and has been used previously from (sic!) different parts of the world” In addition the Registrant contends that: “The word WINLAW has been used extensively in computer services and products that are directed to legal business.” The only evidence to support these two sweeping contentions by the Registrant, is a copy of (merely) three USA trademark cases - apparently indicating one registration (for computer legal software etc) – cancelled in 2004 - and two applications

(one for computer software and one for services) that were abandoned effectively during the term of the aforementioned registration and ostensibly on the grounds of the earlier registration. This shows that the USA Trade Marks Office had in fact registered the trademark WINLAW in respect of "computer-related products, namely, computer software for law office management etc". The Complainant has explained in its Reply, quite correctly in the opinion (and within the experience) of the Adjudicator, that the USA Trade Marks office has a highly rigorous substantive examination procedure that will invariably ensure that no common or generic trademark is registered. Accordingly the contention and this evidence by the Registrant of the mark WINLAW being common in the relevant trade or profession is not persuasive or convincing. Therefore the Adjudicator is obliged to dismiss the above two contentions by the Registrant.

The Registrant further contends that there is "no similarity or confusion on (sic!) the two products by either name or functionality." (-the Adjudicator's underlining/emphasis).

Dealing with the functionality aspect, the Adjudicator points out in general terms that it is trite law that for passing off to take place, it is not necessary for the respective goods or products to be identical. Such goods may be identical or different but certainly, absent other considerations, if the respective goods are identical or similar, the more readily, generally speaking, passing off can occur.

Now considering the functionality aspect referred to above in more detail, firstly from an overall perspective, the respective products or goods of the parties herein are computer software products exclusively sold to, and used by, the legal profession - and hence are identical in that broad and general sense. Secondly the WINLAW software is a legal accounting and bookkeeping software package while the YOUWINLAW software includes a case management, a document filing, and a billing programme. Such legal billing functionality would invariably overlap either directly, or at least to some extent, with the legal accounting and bookkeeping functionality of the Complainant's WINLAW software. Hence the YOUWINLAW

software/programme can be considered to be at least somewhat similar to the WINLAW software/programme both in the abovementioned broad context and in respect of the aforementioned detailed functionality.

In support of the aforementioned, the Adjudicator refers to the textbook by Webster and Page *supra* at paragraph 15.20 and the South African and foreign court decisions cited there.

Although the above considerations would be sufficient for the determination of the Complainant's rights herein, the Adjudicator has taken a further step viz of conducting a Google search on the Internet to examine the Registrant's contention that the term WINLAW has been in common use for many years. That search conducted under the terms WINLAW and then WINLAW SOFTWARE disclosed 12 entries namely 4 entries for WINLAW and its products (as offered and sold by the Complainant and its legal software division/business, Legal Interact), 5 entries for YOUWINLAW and its products (as offered and sold by the Registrant and his company), and 4 entries for other miscellaneous brands namely Legal Suite, Lexicata, Lexpro and BC Computer Software (-the latter being the brand and name of a software business located near a town called Winlaw, in British Columbia, Canada). In the Adjudicator's view this clearly demonstrates that the name and trademark WINLAW is not in common use for legal software, as contended by the Registrant.

Considering all the above factors, the Adjudicator therefore finds that the Complainant has proved, on a balance of probabilities, that it has unregistered rights viz common law rights in respect of the name and trademark WINLAW. The Complainant has thereby also established that it has the necessary *locus standi* to bring this Complaint.

NAME OR MARK IDENTICAL OR SIMILAR TO DOMAIN NAME?

The second element that the Adjudicator needs to establish is whether, on a balance of probabilities, the Complainant has proved that its name or mark WINLAW, in which it has rights as set out above, is identical or similar to the (disputed) domain name. The Complainant contends that its name and mark

WINLAW is similar to the disputed domain name while the Registrant denies this.

The Complainant's name and mark (in which it has rights) is WINLAW, while the disputed domain name is youwinlaw.co.za. Ignoring the first and second level suffixes, in terms of Regulation 5(c), the comparison becomes WINLAW v YOUWINLAW. The Registrant has simply added the pronoun YOU to the Complainant's name or mark WINLAW (and in fact to its domain name winlaw.co.za).

The disputed domain name contains the Complainant's name and mark WINLAW in its entirety. This is undeniably the distinctive, dominant and memorable element of the domain name, and this is the term or feature that is likely to be known to a substantial number of members of the legal profession. The Registrant has merely added the simple and descriptive, and non-distinctive, pronoun YOU to the distinctive WINLAW name/mark. A reasonable person – such as the often cited reasonable man - will therefore find it difficult to avoid the inevitable conclusion that the Complainant's name and mark WINLAW is similar to the disputed domain name.

In support of the above, see the following foreign domain name decisions - In NAF/FA141825 it was held that: "It is also well-established under the policy that a domain name composed of a trademark coupled with a generic term still is confusingly similar to the trademark."

In WIPO/D2002-0367 the Panel concluded that: "The disputed domain name contains Complainant's EXPERIAN trademark in its entirety. The addition of the generic term "automotive" does not distinguish Respondent's domain name from Complainant's mark."

See also the decisions WIPO/D2000-1598 in which niketravel and nikesportstravel were found to be similar to NIKE; DRS04601 in which nikestore was found to be similar to NIKE; and DRS01493 in which nokia-ringtones was found to be similar to NOKIA.

The Adjudicator also refers to the following South African domain name

decisions – in ZA2007-0003 telkommedia was found to be similar to TELKOM; in ZA2007-0010 mwebsearch was found to be similar to MWEB; in ZA2008-0025 suncityshuttle was found to be similar to SUN CITY; in ZA2009-0034 absapremiership was found to be similar to ABSA; in ZA2010-0048 etravelmag was found to be similar to ETRAVEL; and in ZA2013-00149 autotraderauction was found to be similar to AUTOTRADER.

The Adjudicator refers more particularly to the foreign domain name decisions cited by the Complainant -

In WIPO/D2006-1031 the disputed domain name mymastercard.com was found to be similar to the registered trademark MASTERCARD. In other words the addition of the pronoun "my" was held not to be sufficient to avoid confusion. The panel also referred to the decision WIPO/D2000-1007 Sony Corporation v Sin, Eonmok.

In NAF/FA1412001596504 (2015) the disputed domain name youwenttojared.com was found to be similar to the trademark HE WENT TO JARED. In this case the pronoun "you" was substituted for the pronoun "he".

In DRS1061 (2015) the .nz Dispute Resolution Service found that the disputed domain names mycoke.co.nz and mycoke.net.nz were similar to the COKE registered trademark. The Expert found that: "Adding 'my' is insufficient to differentiate the term from the Complainant's marks."

The Adjudicator therefore concludes that there is sufficient logic and authority by way of prior domain name decisions to show that the addition of the pronoun "you" is insufficient to distinguish the Registrant's disputed domain name from the Complainant's name and trademark WINLAW.

Accordingly the Adjudicator finds that the Complainant has proved, on a balance of probabilities, that its name and mark WINLAW is similar to the disputed domain name.

IS THE DISPUTED DOMAIN NAME AN ABUSIVE REGISTRATION?

The third element that the Adjudicator needs to establish is whether, on a balance of probabilities, the disputed domain name, in the hands of the Registrant, is an abusive registration. The Complainant asserts that the disputed domain name is an abusive registration while the Registrant denies this.

The Adjudicator is required to determine whether the disputed domain name is an abusive registration as defined in the definition section of the Regulations viz in Regulation 1, and as set out above.

According to the definition, and to various Nominet decisions, there are two potential abuses (or two types of abuse) viz:

- a) Registration with an abusive intent; and/or
- b) Use in an abusive manner.

The Adjudicator refers to the foreign decisions DRS 02464 (Aldershot Car spares v Gordon); and to DRS 00658 (Chivas Brothers Ltd v David William Plenderleith); and also to the South African decision ZA2007-007 (FIFA v X Yin). Against the background of the aforementioned decisions, the Adjudicator concurs with the view that the nature of "abusive" in the Regulations does not necessarily require a positive intention to abuse the Complainant's rights but that such abuse can be the result/effect or consequence of the registration and/or use of the disputed domain name.

Regulation 4 provides a list of (non-exhaustive) factors/circumstances which may indicate that a disputed domain name is an abusive registration. More particularly, Regulation 4 lists factors or circumstances that indicate that the Registrant has registered the disputed domain names for various stated reasons. The Complainant has asserted the factors or circumstances that will be discussed below viz:

Regulation 4(1)(b) - Circumstances indicating that the Registrant is using, or has registered the (disputed) domain name in a way that leads people or businesses to believe that the (disputed) domain name is registered to, operated or

authorised by, or otherwise connected with the Complainant

In the Adjudicator's view the Complainant has clearly established that it has rights in and to the name and mark WINLAW in respect of legal office software.

The disputed domain name, and the name and trademark used by the Registrant viz YouWinLaw, are both similar to the Complainant's name and trademark WINLAW, and the respective products goods are generally the same viz legal office software, or are at least similar. Hence there is a likelihood that a significant number of persons will be confused or deceived into thinking that the Registrant's products are somehow linked, or are associated with, the Complainant. Consequently there appears to be a real likelihood of passing off taking place in the marketplace where the respective products are sold. See also the discussion above under the above heading **DOES THE COMPLAINANT HAVE RIGHTS?**

In view of potential passing off taking place in these circumstances, as well as actual confusion in the marketplace claimed by the Complainant, it appears to the Adjudicator that the abovementioned relevant circumstances are present.

Because this Complaint is based on passing off, and hence on the reputation, and goodwill, of the Complainant in and to its name and trademark WINLAW, though use thereof in South Africa, non-use by the Complainant of its domain name, as claimed by the Registrant, is of no consequence in regard to this Complaint.

In addition to the above, the Registrant should have been aware of the Complainant's rights at all relevant times, or at least he should have been aware of the Complainant's name and trademark (of the legal software product) WINLAW in and on the South African market – even if he was not aware of the Complainant's domain name winlaw.co.za. The Registrant, however, denies knowledge of the WINLAW name and trademark although he and his company had conducted extensive investigations in this field, as confirmed in the following statement by the Registrant: "In February 2015,

after a long research on (sic!) the local and international companies that can offer a simple and affordable solution for the legal profession market, the Registrant contacted various companies" (-underlining and emphasis by the Adjudicator).

Although awareness of the Complainant's name and mark WINLAW at the relevant time is not *per se* a requirement herein, the denial of such awareness, in circumstances where the Registrant should have known or become aware thereof, raises a suspicion that the Registrant was not acting in good faith at that time viz when deciding to register the disputed domain name and when deciding to commence use of the name and trademark YouWinLaw in selling such branded legal office software.

Failure by the Registrant to reply to the letter of demand dated 24 August 2016 from the Complainant's attorneys also appears to indicate a measure of bad faith on the part of the Registrant herein.

In addition to the above considerations, the direct question arises whether the Registrant had acted in good faith or otherwise in registering and using the disputed domain name. In this regard, the Registrant had warranted, when applying to register the disputed domain names, in terms of the Uniform SA terms and conditions (in clause 5.1) that:

- I. "It has the right without restriction to use and register the Domain Name"
- II. "The use or registration of the Domain Name [by the Registrant] does not or will not interfere with, nor infringe the right of any third party in any jurisdiction with respect to trade mark, service mark, trade name, company name, close corporation name, copyright, or any other intellectual property right."

Clause 5.1.1 of the ZA Central Registry terms and conditions state further (-to which the Registrant had agreed): "Applicant (the Registrant) hereby irrevocably represents, warrants, and agrees that its [above] statements in the Application are accurate and complete."

It appears highly unlikely that the Registrant had not known, at all material

times, of the Complainant and its rights in and to its name and trademark WINLAW, and hence it appears both from this knowledge and directly from the above false statements or warranties by the Registrant that the disputed domain name was registered in bad faith.

In the Adjudicator's view, both the actual confusion that has taken place, as claimed by the Complainant, as well as likely confusion, has the effect of disrupting and potentially damaging the reputation and business of the Complainant.

Also in the Adjudicator's view, the existence of the disputed domain name, and its use (-together with the use of the name and trademark YouWinLaw), has the potential to erode the distinctive character of the name and trademark WINLAW. This can, or will, ultimately decrease the value of this brand, and hence may damage the reputation and business of the Complainant.

In support of the above, the Adjudicator refers to the South African decision ZA2012-0117 (South African Revenue Services v Antonie Goosen) and the foreign decisions: WIPO case no. D2005-0283 (associatedbritishfoods.com) and no. D2009-0286 (qualitair4u.com).

Accordingly the Adjudicator comes to the conclusion that these circumstances apply in the present dispute, in addition to the lack of good faith by the Registrant, and that these factors indicate that the disputed domain name may be an abusive registration.

4.1 Abusive Registration

4.1.1 In view of the above, the Adjudicator concludes that the disputed domain name –

- a) was registered in a manner which, at the time when the registration took place, took unfair advantage of or was unfairly detrimental to the Complainant's rights; and/or
- b) has been used in a manner that takes unfair advantage of, or is unfairly detrimental to, the Complainant's rights.

4.1.2 Accordingly the Adjudicator finds, on a balance of probabilities, that the disputed domain name, in the hands of the Registrant, is an abusive registration.

5. Decision

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

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ANDRE VAN DER MERWE
SAIIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za