

ADJUDICATOR’S SUMMARY DECISION

CASE NUMBER:	ZA2020-0409
DECISION DATE:	19 November 2020
DOMAIN NAME:	<i>adwordz.co.za</i>
THE DOMAIN NAME REGISTRANT:	Garth De Lange
REGISTRANT’S LEGAL COUNSEL:	n/a
THE COMPLAINANT:	Google LLC
COMPLAINANT’S LEGAL COUNSEL:	Adams & Adams - Mariëtte du Plessis
2 nd LEVEL ADMINISTRATOR:	ZACR

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1. The Parties

Complainant:

Google LLC

[REDACTED]
[REDACTED]

California, 94043

United States of America

Registrant:

Garth De Lange

[REDACTED]
[REDACTED]
[REDACTED]

Gauteng, 2170

South Africa

2. The Domain Names: ADWORDZ.CO.ZA

3. Notification of Complaint (21 September 2020)

I am satisfied that the Registrant did not submit a response to the dispute in terms of Regulation 18(1) and that all reasonable steps to notify the Registrant of the dispute in accordance with Regulation 18(4)(a) read with Regulation 15(1) have been taken.

Kindly refer to my further comments relating hereto in point 7 below.

Yes

No

4. Rights

The Complainant has, to my reasonable satisfaction, shown rights in a name or mark which is identical or similar to the domain name.

Yes No

5. Abusive Registration

The Complainant has, to my reasonable satisfaction, shown that the domain name is an abusive registration in the hands of the Registrant.

Yes No

6. Other Factors

I am satisfied that there are no other factors or circumstances present that would render the decision in this matter unfair.

Yes No

7. Comments

The Registrant, per Ms Claire De Lange, who I (for the purposes of this matter at least) accept to be an authorised representative of the Registrant, submitted a response to the Provider in the form of an email. Although the said response did not meet the procedural requirements set by the Regulation 18, Regulation 24(1) indicates that parties must be treated with equality and afforded a fair opportunity to present their cases. As such, the relevance and merit of a response, irrespective of form, should at least be considered by the Adjudicator. Accordingly, I considered the content of the Deficient Response in the sake of fairness.

It should be noted that Regulations 18 and 19 only refer to a “response” and not a “response in compliance with Regulation 18”. As such, and as numerous Adjudicators have done in previous matters, a deficient response may be accepted if the Adjudicator finds such admissible, as provided for in Regulation 24(3). Furthermore, as stated by my fellow Adjudicator in ZA2009-00031: “...to ignore a response would be to put form above substance...”. See also ZA2008-00024 and ZA2011-00070.

The Complainant was accordingly provided the opportunity to submit a Reply to the Deficient Response, which it did. It should be noted here that such a Reply contained, in large, submissions against allowing the Deficient Response by the Registrant.

Thus, after careful consideration of the Registrant's Response (in its deficient form), as well as the submissions entered into by the Complainant against such in its Reply, I am of the view that the Response submitted by the Registrant in this matter does not contain any submissions of substance, nor is it supported by any evidence that would impact my findings and is merely comprised of statements without any legal bearing herein. See also ZA2013-00128.

Furthermore, it should be noted that the Registrant was informed of its Response being deficient and was afforded an opportunity to rectify its Response and submit such in the appropriate manner. The Registrant however herein failed to rectify its Deficient Response on request to do so by the Provider.

Subsequently, although initially considering allowing the Deficient Response herein, I shall disregard the said Deficient Response and view this Complaint as having a Default Response as contemplated by Regulation 28. Accordingly, in terms of Regulation 18(3), my decision herein shall be issued as a Summary Decision. See also ZA2016-00255.

8. Decision

For all the foregoing reasons, in accordance with Regulation 9(1)(a), the Adjudicator orders that the domain name, *adwordz.co.za* be transferred to the Complainant.

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CHRISTIAAN J STEYN
SAIIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za