

ADJUDICATOR DECISION

CASE NUMBER:	ZA2021-0431
DECISION DATE:	23 February 2022
DOMAIN NAME/S:	himalayaherbals.co.za himalayawellness.co.za
THE DOMAIN NAME REGISTRANT:	Goodibox (Pty) Ltd
REGISTRANT'S LEGAL COUNSEL:	Cliffe Dekker Hofmeyr Inc.
THE COMPLAINANTS:	The Himalaya Drug Company (Pty) Ltd (First Complainant) Himalaya Global Holdings (Second Complainant)
COMPLAINANT'S LEGAL COUNSEL:	Ulrich Roux & Associates Inc.
THE 2 nd LEVEL DOMAIN NAME ADMINISTRATOR:	ZACR

Contents

1) Procedural History	2
2) Factual Background	3
3) Parties' Contentions	5
a. Complainant	5
b. Registrant	7
4) Discussion and Findings	12
a. The citation of the Registrant in this Dispute	12
b. The contractual dispute	14
c. The extension of time	14
d. Complainant's Rights	15
e. Abusive Registration	17
5) Decision	20

1) Procedural History

- a. The Dispute was filed with the South African Institute of Intellectual Property Law (the "SAIIPL") on **5 November 2021**. In response to a notification by the SAIIPL that the Dispute was administratively deficient, the Complainants re-filed an amended Dispute on **25 November 2021**. On **25 November 2021** the SAIIPL transmitted by email to ZACR a request for the registry to suspend the domain names at issue, and on **25 November 2021** ZACR confirmed that the domain names had indeed been suspended. The SAIIPL verified that the amended Dispute satisfied the formal requirements of the .ZA Alternate Dispute Resolution Regulations (the "Regulations"), and the SAIIPL's Supplementary Procedure.
- b. In accordance with the Regulations, the SAIIPL formally notified the Registrant of the commencement of the Dispute on **30 November 2021**. In accordance with the Regulations the due date for the Registrant's Response was **3 January 2022**.
- c. On **14 December 2021** the Registrant requested an extension of time in which to file a response up to and including 21 January 2022, citing availability constraints over the December 2021 and early-January 2022 period (the "relevant period"). On **15 December 2021** the Case Administrator (the "Administrator") granted an extension until **14 January 2022**.
- d. On **17 December 2021**, the Registrant reiterated its initial extension request, citing difficulties in securing counsel during the relevant period as well as a lack of urgency. On the same date, the Complainants objected to the Registrant's request, on the basis that the time periods set out in the Regulations are provided so as to ensure an expeditious dispute resolution process. The Administrator, taking into consideration the parties'

submissions, declined the Registrant's further extension request and the SAIIPL notified the parties on the same date.

- e. On **17 December 2021**, the Registrant requested reasons for the Administrator's decision. The SAIIPL provided the Administrator's reasons to the Registrant on **20 December 2021**. In its reasons, the Administrator advised that the ADR procedure is meant to be a process to facilitate a speedy and efficient resolution of domain name disputes, that extensions are discretionary, and that a reasonable extension had been provided, in good faith, in this case. On this basis, the Adjudicator declined to grant the additional 5 days requested by the Registrant.
- f. The Registrant submitted its Response on **14 January 2022**, and the SAIIPL verified that the Response satisfied the formal requirements of the Regulations and the SAIIPL's Supplementary Procedure. The SAIIPL forwarded a copy of the Response to the Complainant on **17 January 2022**.
- g. In accordance with the Regulations the due date for the Complainants' Reply was **24 January 2022**. The Complainants submitted its Reply on **24 January 2022**.
- h. The SAIIPL appointed **Mr. Janusz Luterek** as the Adjudicator in this matter on **03 February 2022** and **Mrs. Tammi Lea Pretorius** as the Trainee Adjudicator in this matter on **03 February 2022**. The Adjudicator and Trainee Adjudicator have submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the SAIIPL to ensure compliance with the Regulations and Supplementary Procedure.

2) Factual Background

- a. The Dispute is in respect of the domain names ***himalayaherbals.co.za*** and ***himalayawellness.co.za***. According to a co.za Whois search, the

domain names were registered on 27 July 2016 and 27 September 2016 respectively.

- b. The First Complainant is The Himalaya Drug Company (Pty) Ltd, a company registered in terms of the company laws of South Africa with its address at Yellow Wood Place, Woodmead Business Park, 145 Western Services Road, Woodmead, 2191, Sandton, South Africa. The Second Complainant is Himalaya Global Holdings Ltd, a company registered under the laws of the Cayman Islands. The Second Complainant is a large global entity which has subsidiaries in several countries (the "Himalaya Group"). The First Complainant is a wholly owned subsidiary of the Second Complainant (collectively referred to as the "Complainants").
- c. The Complainants claim in their Complaint that the Himalaya Group sell a brand of pharmaceutical, dietary supplement and personal care products under the name "Himalaya" alongside, *inter alia*, the words "Herbals" or "Wellness" (the "Himalaya Products"). According to the Complainant's, the Himalaya Group has been trading for over 90 years.
- d. In South Africa, the Second Complainant is the proprietor of, *inter alia*, the registered trade marks HIMALAYA HERBALS & Device in classes 3, 5 and 30 (filed in 2003), HIMALAYWA WELLNESS SINCE 1930 & Device in classes 3, 5 and 30 (filed in 2013), and THE HIMALAYA DRUG COMPANY in classes 3, 5, 16 and 30 (filed in 2010) in relation to, *inter alia*, general cosmetics and personal care products; pharmaceutical and herbal products; and coffee, tea and/or honey. These rights are not in dispute.
- e. In the Dispute, the Complainants cited the Registrant as Goodibox (Pty) Ltd, a private company with registration number 2009/125863/23. In the Response it was raised as a point in limine that the Registrant had been cited incorrectly since it is in fact a close corporation. In Reply, the Complainant's corrected the citation of the Registrant, noting it as a misdescription and confirming that the Registrant's registration number

was cited correctly and thus it was clear that the Dispute was always intended to be against Goodibox CC. This is dealt with in more detail further below.

- f. It is not in dispute that the deponent to the Response is the sole member of the Registrant.
- g. It is also not disputed that the deponent to the Response is the sole director of a private company known as Himalayan Herbal (Pty) Ltd ("Himalaya Herbals") and the websites attached to the domain names are used by Himalaya Herbals.
- h. It is common cause that the Registrant and Himalaya Herbals (owned and controlled by the deponent to the Response) and the First Complainant have had past business dealings. The deponent to the Response distributes and/or promotes the Himalaya Products in South Africa through the Registrant as well as through Himalaya Herbals. The First Complainant provided Himalaya Herbals with a monthly marketing budget as well as promotions, special offers, etc.

3) Parties' Contentions

a. Complainant

- i. The Complainants allege that the First Complainant previously engaged with the Registrant to obtain assistance in creating brand awareness of the Himalaya Products in South Africa for the benefit of the Complainants. This engagement led to the establishment of Himalaya Herbals, in respect of which the Complainant provided favourable purchasing prices of the Himalaya Products for distribution and to gain an awareness thereof in South Africa.

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- ii. The Complainants allege that the domain names were registered by the Registrant for this brand awareness (marketing) purpose, and that the intention was that control of the domain names would revert to the Complainants. The Complainants deny that consent was ever granted to the Registrant to use the trade marks indefinitely, contending that it would make no sense for a global entity to give away one of its most valuable assets and merely allowing a marketer to market the Complainants' business without the Complainants receiving any gain.
 - iii. The Complainants refer to annual trade agreements having been concluded between the First Complainant and Himalaya Herbals between the period 2016 and 2020, though no copies of such agreements are provided. Nevertheless, it alleges that those agreements did not assign or licence any rights to the Registrant nor Himalaya Herbals to use the Complainant's registered trade marks. The Complainants also refer to a trading agreement for the period 1 January 2021 to 31 December 2021, signed only by the deponent to the Response on behalf of Himalaya Herbals. This agreement does not refer to the Complainants' trade marks nor the domain names in dispute.
 - iv. The Complainants contend that after they no longer required the services of the Registrant, they requested (through the First Complainant's representative) that the domain names be transferred to the First Complainant. The deponent to the Response refused to do so and subsequently requested payment in the amount of \$868,000 (eight hundred and sixty eight thousand US Dollars) in exchange for, *inter alia*, the transfer of the domain names. This was rejected by the Complainants.
 - v. The Complainants contend that the Registrant, by virtue of the relationship between the First Complainant and Himalaya Herbals,

gained an undue advantage from the use of the registered trade marks in the domain names. They contend that the Registrant's actions are mala fide and amount to filching of the success and reputation built by the Complainants. They further contend that the Registrant's actions are indicative of abusive registrations as contemplated in terms of regulations 4(1)(a)(i), 4(1)(a)(iv) and 4(1)(b).

b. Registrant

- i. The deponent to the Response raises a number of points in limine before dealing with the substantive contentions of the Dispute.
- ii. First, the deponent to the Response contends that the Registrant has been incorrectly cited in these proceedings as a private company instead of a close corporation. The deponent also contends that the cited Registrant is not the registrant and/or administrator of the domain names. Rather, the deponent alleges that the domain names were registered in her personal name with the full knowledge and consent of the Complainants. For these reasons, the deponent to the Response contends that the domain names do not lie in the hands of the Registrant as cited and on this basis this Dispute serves to be dismissed.
- iii. The deponent further alleges that the business conducted under the domain names through Himalaya Herbals has nothing to do with cited Registrant, and the only commonality between the two is herself.
- iv. Second, and whilst the deponent to the Response admits the Complainants' rights in and to the registered trade marks relevant to this dispute, she does dispute the terms under which she was entitled to use those trade marks, citing the issue as contractual.

On this basis, the deponent contests that this ADR forum is the incorrect forum to determine a contractual dispute

- v. Third, the deponent to the Response alleges that the Response is presented under protest, without the ability to consult with chosen counsel in light of limited availability during the relevant period, due to the full extension not having been granted for the Response submission.
- vi. The deponent to the Response makes various additional and extensive contentions in response to the Dispute:
 - 1. She denies that the Registrant has anything to do with the websites associated with the domain names, contending that it is the separate business Himalaya Herbals which utilises the Complainants' intellectual property in the domain names with the Complainants' consent.
 - 2. She contends that the goods sold through the website attached to the domain names were initially provided to her on consignment and thereafter purchased from the Complainants under trade agreements, and were advertised and resold online.
 - 3. She contends that there were no trade agreements between the Complainants and the Registrant, save for a temporary arrangement in terms of which an account with the First Complainant was opened in the name of the Registrant pending a change in the shareholding and directorship of Himalaya Herbals. She alleges that once this shareholding/directorship change was complete a new account application was submitted and all trade agreements, invoices and statements going forward were in

the name of Himalaya Herbals. There are also various contentions made surrounding the involvement of the First Complainant's representative and his wife as stakeholders in the Himalaya Herbals business. As will become apparent, nothing turns on these contentions. Ultimately, the Himalaya Herbals business carried on under the sole directorship of the deponent to the Response..

4. She submits that the Complainants fail to indicate on what basis the registration of the domain names "at the time of registration" were abusive and prevented the Complainant from exercising their rights. She contends that at no point in time were the circumstances surrounding the registration of the domain names indicative of the fact that the Registrant intended to:
 - a. sell, rent or otherwise transfer the domain names to the Complainants or a third party (since such terms were never discussed nor contemplated at the time of registration);
 - b. block intentionally the registration of a mark in which the Complainants have rights (since the Complainants had already registered the trade marks and, after being fully informed of her commercial intentions regarding the domain names, elected to consent to her fair and indefinite use of the Complainant's intellectual property for the purposes of establishing a business wholly owned by herself);
 - c. disrupt unfairly the Complainants business (since the Complainant's consented to the registration and

use of the domain names on an indefinite basis);
and

- d. prevent the Complainants from exercising their rights (since no such rights were at issue when consent was afforded to her).
5. She contends that she has been making legitimate use of the domain names for the past 6 years, in accordance with a contract, albeit verbal - the crux of which is that she would be indefinitely authorised to establish an online business for the sale of the Himalaya Products through the Himalaya Herbals company, using the domain names; with no control being exercised over the business by the Complainants.
 6. On the other hand, she contends that the Complainant would support her efforts and business by working towards establishing and promoting the Complainants business presence in the South African market. She was provided with online promotions for the online store, special offers, covered shipping costs of certain promotions, and the like. This is not in dispute.
 7. She does not dispute that the Complainants hold registered trade mark rights and that the trade marks are identical to the domain names. However, she alleges that there is no basis in law that the Complainants are entitled to obtain, free of charge, the commercial rights associated with any business established upon and through use of their intellectual property, when consent for such use was provided continuously and indefinitely for the past 6 years, without at the very least reasonable compensation for

years of hard work, future income and a reasonable winding down period.

8. Further contentions were raised in respect of the background to and the contractual relationship between the parties which led to the ultimate registration and use of the domain names. Many of these contentions pertain to verbal discussions between the deponent and the First Complainant's representative, the details of which are ultimately substantively disputed by the parties.
9. She further contends that in an attempt not to dilute the brand or destroy the good name of Himalaya Herbals and the Complainants, she bought and "defensively reserved" several other .co.za domain names incorporating the Second Complainant's trade marks and offered these as part of the sale offering to the Complainants. All of this happened after the parties had already become engaged in the contentious discussions surrounding the ownership of the domain names relevant to this Dispute.
10. In respect of the offer to sell the domain names to the Complainants, she contends that this offer was made in response to a request by the Complainants. In support thereof, she relies on email correspondence dated 21 October 2020 wherein the Complainants' representative states *"If you could revert with a cost for [the URL's Himalaya Wellness / Himalaya Herbals] as discussed, this is to create uniformity globally on our website platform."*
11. Finally, the deponent to the Response contends that, in the very least, she is entitled to a reasonable compensation and a reasonable winding down period.

4) Discussion and Findings

The Adjudicator has read and carefully considered the papers and documents filed by the parties, and the merits thereof. However, before the Adjudicator can discuss and find on the merits of the Dispute, the points in limine raised by the deponent to the Response must be dealt with.

a. The citation of the Registrant in this Dispute

- i. In the Dispute, the Complainants cited the Registrant as a private company (“Pty) Ltd”) when it is, in fact, a close corporation (“CC”). The Complainants correctly cited the Registrant’s registration number. In Reply, the Complainants corrected the earlier citation of the Registrant on the basis that the incorrect citation was merely a “misdescription” and that it had always been the intention that the Dispute be against the CC. The Complainants further submitted that no prejudice had been suffered by the Registrant as a result of the incorrect citation.
- ii. Aside from denying that the Registrant (correctly or incorrectly cited) has anything to do with this Dispute (which is dealt with in more detail hereunder), the dependent to the Response did not make any submission or provide any evidence of prejudice arising from the citation error itself.
- iii. The Administrator is of the view that the incorrect citation of Goodibox as a private company as opposed to a close corporation is immaterial and constitutes an inadvertent incorrect description. It is simply a question of correcting the description from “(Pty) Ltd” to “CC” and this does not change the reality of the situation perceived between the parties themselves.¹ Moreover, having

¹ **Du Toit v Highway Carriers & Another** 1999 (4) SA 564 (W) at 569J-570D.

regard to the fact that the registration number for Goodibox was correctly cited, and the deponent to the Response confirms that she is the commonality between Goodibox, and the business conducted in respect of the domain names, nothing material turns on the minor issue of whether Goodibox was cited as a (Pty) Ltd or a CC. The question is whether Goodibox is the Registrant of the domain names.

- iv. The Complainant cited Goodibox as the Registrant on the basis of the information it received from ZA Central Registry NPC ("ZACR"), pursuant to its PAIA application, which was submitted in light of the fact that the information contained on www.whois.com was redacted. The deponent to the Response, however, has denied that Goodibox is the registrant and/or administrator of the domain names. Rather, she contends that the domain names were registered in her name, with the full knowledge and consent of the Complainants. As proof thereof, she tendered renewal invoices in respect of the domain names from Afrihost (Pty) Ltd (the "Registrar") addressed to her, as well as an email dated 01 December 2021 wherein the Registrar advised that "*The invoices contain both the registrant's (you) details and the registrar's (Afrihost) details for the domain names in question.*". In Reply, the Complainants relied on an email from ZACR clarifying why their records reflect the Registrant as Goodibox and not the deponent herself. ZACR confirmed that the details provided to it by the Registrar to register the domain names through the portal that is connected to ZACR are those of the Registrant. In terms of its policy, ZACR rely on the information provided to it by the Registrar, and it is possible that the Registrar has two sets of information, namely those used to register the domain name through the Registrar portal and those used to create a customer account.

v. The terms and condition of registration of a domain with ZACR provide that the Registrar must at all times provide and maintain accurate and complete domain name registration data, and undertakes to ensure that the registrant is accurately identified on the domain name record.² All indications are, therefore, that the Registrant details provided and recorded through the Registrar portal by the Registrar upon registration of the domain names are those of the Registrant. The fact that the Registrar's invoices are issued to the deponent herself is not relevant to the question of who the Registrant is. According to the official records of ZACR, the Registrant is the owner of the domain names. For these reasons, the Administrator accepts that correct Registrant is before SAIPL.

b. The contractual dispute

- i. The Adjudicator wishes to make clear that in no way shall it deal with any aspects relating to the validity of the terms of the contractual relationship or any other legal relationship between the Complainants and the Registrant in this forum, and any reference thereto or account thereof shall only be taken insofar as it may relate to the disputed domain names herein.
- ii. What is evident from the facts, however, is that the legal relationship between the Complainant and the Registrant is one of a distributorship and the Adjudicator is satisfied that the Dispute in this forum is therefore a mere domain dispute against the background of a distributorship relationship between the parties.³

c. The extension of time

² https://www.registry.net.za/downloads/u/CoZa_Published_Policies_and_Procedures.pdf, clause 5.3.4.

³ See ZA2011-0068 (singersa.co.za).

- i. One of the issues which arose in this matter was whether or not an additional extension of 5 days, over and above the extension of 9 days which was initially granted by the Administrator, should have been afforded to the Registrant to file its Response. The Registrant alleges that the Response is presented under protest, due to its inability to consult with its chosen counsel arising from limited availability during the relevant period. At all times, the Registrant insisted on an addition 14 days to submit its Response.
- ii. In terms of the Regulations and Supplementary ADR Procedures, limited extensions of time may be granted by the Administrator on good cause shown by the requesting party. The Administrator has an obligation to ensure that it acts strictly in granting any extension, as well as to remain mindful of the fact that the Regulations are there to provide an efficient and expeditious means of resolving a domain name dispute. The general powers of the Administrator, including the power to grant extensions, are set out in Regulation 24.
- iii. Ordinarily, the Registrant would be afforded a period of 20 days from the date of the dispute, to provide the Administrator with a Response. In this instance, the Registrant requested an additional 14 days in which to provide its Response. The Administrator granted an additional 9 days.
- iv. The Adjudicator is satisfied that the Registrant was afforded sufficient time to properly consider the matter and to file a full Response. Indeed, the Response filed by the Registrant was extensive and the supporting evidence equally so. The Adjudicator is not convinced that the additional 5 days insisted on by the Registrant would have rendered the Response any more or less extensive.

d. Complainant's Rights

- i. Regulation 3(1)(a) requires that the Complainants prove each of the following elements in order for the domain names to be transferred:
 - a. that the Complainants have established rights in respect of the name or mark which is identical or similar to the domain names; and
 - b. that in the hands of the Registrant, the domain names are abusive registrations.
- ii. It is common cause that the Complainants have rights in respect of a name or mark which is identical or similar to the domain names in dispute. The Complainants have demonstrated that the Second Complainant owns various trade mark registrations in South Africa, all of which pre-date the registration of the domain names. The domain names comprise of the most dominant and distinctive features of those trade marks.
- iii. From the facts of this case, it is clear to the Adjudicator that the relevant relationship between the parties has always been that of a distributorship. Accordingly, all rights of a trade mark nature accrue to the proprietor of the trade mark and not to the distributor – in this case the Complainants. Neither the Registrant, nor Himalaya Herbals (or its mutual representative) can have any rights or a claim to the registered trade marks nor the disputed domain names comprising thereof. This is trite in law.⁴

⁴ See **Webster & Page, South African Law of Trade Marks, 4th Edition**, paragraphs 3.21 at p 3-25; 3.52 at p 3-81; and 15.18.1, at p 15-47 and the authorities cited in those paragraphs. See also the Appellate Division case **Taylor & Horne (Pty) Ltd v Dentall (Pty) Ltd** 1991 SA 412 (A) which was cited with approval in the SAIPL Case **ZA2008-0016 [mares.co.za]**.

- iv. The Adjudicator also wishes to point out that this forum does not, in any manner, purport to deal with terms and conditions of the relationship between the parties nor the termination thereof, suffice to state that there is nothing before the Adjudicator which would serve to indicate that, in the event that the Complainants did grant the Registrant, Himalaya Herbals or its mutual representative "indefinite consent" to register and use the domain names, such consent could not be withdrawn or revoked.

e. Abusive Registration

- i. Regulation 4(1) provides for a number of grounds on which the Complainants can rely in showing that the domain names are abusive registrations. For purposes of this dispute, the Complainants claim that the domain name registrations are abusive in that:
 - a. They were registered or otherwise acquired primarily to sell, rent or otherwise transfer the domain names to the First Complainant or to a competitor of the First Complainants or any third party, for valuable consideration in excess of the Registrant's reasonable out-of-pocket expenses directly associated with acquiring or using the domain names;
 - b. They were registered or otherwise acquired primarily to prevent the First Complainant from exercising its rights; and
 - c. The Registrant is using the domain names in a way that leads people or businesses to believe that the domain names are registered to, operated or authorised by, or otherwise connected with the First Complainant.

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- ii. The nature of “abusive” in the Regulations does not necessarily require a positive intention to abuse the Complainants’ rights. Such abuse can be the result, effect or consequence of the registration and/or use of the disputed domain names. Moreover, a registration can be abusive “now” although not “then”.⁵
- iii. Having considered all of the facts and evidence, however, the Adjudicator is not convinced that domain names were registered “then” by the Registrant primarily to sell, rent or otherwise transfer the domain names to the First Complainant (or to anyone, for that matter); nor were they registered “then” primarily to prevent the First Complainant from exercising its rights. Rather, all of the facts and evidence point to registration vis a vis the distributorship relationship between the parties, rightly or wrongly so. The parties (that is, the Registrant, Himalya Herbals and their mutual representative, and the Complainants) engaged in a distributorship relationship for 6 years and all indications are that the relationship would have continued had the Complaints not decided (for whatever reasons) to terminate same. The resulting consequence of such a relationship is that the rights accrued through the use of the trade marks and the domain names incorporating the trade marks by the distributor ultimately vest in the trade mark proprietor - in this instance, the Complainants.
- iv. It follows, therefore, that the resulting consequence of the termination of the relationship between the parties “now” is that, even though it is the Complainants who have the rights, the registration of the domain names by the Registrant is preventing the Complainants from exploiting those rights and from being able to register their registered trade marks as a domain name.

⁵ see ZA2018-0352 (**revitalash.co.za**) and the authorities cited therein, including the foreign decisions DRS02464 (**Aldershot Car spares v Gordon**), DRS00658 (**Chivas Brothers Ltd v David William Plenderleith**), and the SAIPL Case ZA2007-0007 (**fifa.co.za**) as referred to in ZA2017-00272, ZA2017-00265 and ZA2017-00285.

- v. The disputed domain names undeniably prevent the Complainants from registering those domain names, or its name or trade marks in this form, for themselves, whether through the intent of the Registrant or as an unintended consequence of the domain name registrations.

- vi. The evidence before the Adjudicator indicates that the Complainants are prepared to pay the costs of the registration and maintenance of the domain names thus far. The evidence tendered by the Registrant is that, notwithstanding the fact that it did not want to sell the domain names, it would be prepared to transfer same as a cost of approximately R12,000,000 and this selling price was based on 6 years of use of the domain names (including the goodwill generated to date) without any compensation from the Complainants, as well as the expected growth over the next 12 years. No evidence to support the latter contention was provided and the evidence shows that the Complainants provided some level of marketing support and budgets, as well as discounted or favourable rates. Moreover, the authority establishing that the distributor does not acquire any goodwill has been cited above. For all of these reasons, the Adjudicator believes that the Registrant's attempt to sell the domain names "now" at an inflated or exorbitant and unsubstantiated cost is abusive.

- vii. For all of the above reasons, the Adjudicator finds in favour of the Complainants on its grounds in terms of Regulations 4(1)(a)(i) and 4(1)(a)(iv).

- viii. As for the grounds in terms of Regulation 4(1)(1)(b), it is the Adjudicator's view that it is likely that the average member of the public will assume that the business of the Registrant, conducted through the website associated with the domain names, is somehow

related or connected with that of the Complainants, or is authorised by the Complainants. The domain names incorporate the Complainants' trade marks. The domain names are being used to attract customers to view and purchase the Himalaya Products. The domain names are registered in the name of the Registrant and its sole member is the party controlling the domain names and the associated websites. The Complainants do not authorise this use. Accordingly, the Adjudicator finds in favour of the Complainants on this ground.

- ix. The Adjudicator concludes that the disputed domain names, in the hands of the Registrant, are abusive registrations.

5) Decision

- a. For all the foregoing reasons, in accordance with Regulation 9, the Adjudicator orders that the domain names ***himalayaherbals.co.za*** and ***himalayawellness.co.za*** be transferred to the First Complainant, The Himalaya Drug Company (Pty) Ltd.

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