

ADJUDICATOR'S SUMMARY DECISION

CASE NUMBER:	ZA2022-0439
DECISION DATE:	22 March 2022
DOMAIN NAME:	houseofcoffee.co.za
THE DOMAIN NAME REGISTRANT:	Carolyn Boyes
REGISTRANT'S LEGAL COUNSEL:	None
THE COMPLAINANT:	National Brands Limited
COMPLAINANT'S LEGAL COUNSEL:	Adams & Adams
2 nd LEVEL ADMINISTRATOR:	ZACR

Table of Contents

1. The Parties	2
2. The Domain Name	2
3. Notification of Complaint	2
4. Rights	2
5. Abusive Registration	2
6. Other Factors	3
7. Comments (Optional)	3
8. Decision	4

1. The Parties

Complainant:

National Brands Limited

Gauteng

South Africa

Registrant:

Carolyn Boyes

Meadowridge

Cape Town

2. The Domain Name: **HOUSEOFCOFFEE.CO.ZA**

3. Notification of Complaint **(28 January 2022)**

I am satisfied that the Registrant did not submit a response to the dispute in terms of regulation 18(1) and that the Registrant has been notified of the dispute in accordance with regulation 18(4)(a) read with regulation 15(1).

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 (Optional)

The Registrant submitted a brief, informal response not deposited under oath five days after the response deadline and after the Adjudicator appointment process had already begun. The Registrant did not ask for any extension of time or condonation.

In terms of Regulation 28, if a party does not comply with any of the mandatory time periods the Adjudicator must proceed to a decision. Adjudicators must also ensure that these disputes are handled as expeditiously as possible, in terms of Regulation 24(2). The procedural integrity and the primary rationale of the ADR system, being the efficient handling of disputes, would be severely undermined if late filed responses, especially those filed after the Adjudicator appointment process has begun, were to be accepted and allowed to derail the already-commenced procedural direction of any given case. Accordingly, the Adjudicator considers that the Registrant's late, informal response is not to be considered for the purpose of determining the procedural course of this dispute.

In any event, and in the interests of justice, the Adjudicator has considered the response in terms of the Adjudicator's powers set out in Regulation 24(3) and finds it wholly unconvincing, especially in light of the reverse onus addressed below. The response does not address the merits of the matter at all.

The Complainant owns a trade mark registration for a mark that is identical to the disputed domain name, specifically, South African trade mark registration no. 1996/03389 for the mark HOUSE OF COFFEE. Accordingly, the burden of proof shifts to the Registrant to show that the domain name is not an abusive registration in terms of the proviso to Regulation 5(c). The Registrant has wholly failed to meet this burden.

8. Decision

For all the foregoing reasons, in accordance with Regulation 9, I order that the disputed domain name, houseofcoffee.co.za, be transferred to the Complainant.

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JEREMY SPERES
SAIIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za