

Decision

ZA2016 - 0236

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

ADJUDICATOR DECISION

CASE NUMBER:	ZA 2016 - 0236
DECISION DATE:	17 June 2016
DOMAIN NAME	purdey.co.za
THE DOMAIN NAME REGISTRANT:	Deon Venter
REGISTRANT'S LEGAL COUNSEL:	Representing himself
THE COMPLAINANT:	James Purdey & Sons Limited
COMPLAINANT'S LEGAL COUNSEL:	Nishan Singh, Adams & Adams
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 **8 April 2016**. On **11 April 2016** the SAIPL transmitted by email to the ZA Central Registry (ZACR) a request for the registry to suspend the domain name at issue, and on **12 April 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 **12 April 2016**. In accordance with the Regulations the due date for the Registrant’s Response was **12 May 2016**. The Registrant submitted its Response on **12 May 2016**, and the SAIPL verified that the Response satisfied the formal requirements of the Regulations and the SAIPL’s Supplementary Procedure. The SAIPL forwarded a copy of the Response to the Complainant on **17 May 2016**.
- c) In accordance with the Regulations the due date for the Complainant’s Reply was **24 May 2016**. The Complainant submitted its Reply on **24 May 2016**.
- d) The SAIPL appointed **Victor Williams** as the Adjudicator in this matter on **30 May 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 The Complainant is a premium brand in the international gun and rifle market, founded in 1814. Since 1868 every British monarch has granted the Complainant a Royal Warranty to supply guns and rifles to the monarch and other members of the royal family.
- 2.2 The Complainant operates an extensive website featuring information about its guns, rifles and accessories at purdey.com, and has owned and used the domain name since October 28, 1997.
- 2.3 Complainant is the proprietor of South African Trademark Registration No 2011/20417, with date of registration of August 18, 2011.
- 2.4 The Registrant is the owner of many domain names, which he sells for profit.

3 Parties' Contentions

3.1 Complainant

- a) The PURDEY trade mark is, due to the extensive use and registration around the world, a well known mark that should enjoy liberal protection under the Paris Convention.
- b) The offending domain is confusingly similar to the PURDEY trade mark, in that it wholly incorporates the PURDEY trade mark.
- c) The domain name in the hands of the Registrant is an abusive registration, as the Registrant is not known by the PURDEY mark, has never used the domain name and is preventing Complainant from exercising its rights in the primary domain most South Africans access.

- d) The Complainant has not granted the Registrant any license, permission or authorization to use the PURDEY trade mark.
- e) The Registrant is only using the domain to elicit an offer to buy the domain name.

3.2 Registrant

- a) The domain name is not identical or similar to a name or mark in which the Complainant has rights, and the Trademark Registry made an obvious mistake in allowing the registration of the PURDEY Mark.
- b) The Registrant trades in domains, and is entitled to do so in this instance as the domain name is a generic name equivalent.

4 Discussion and Findings

- a) The offending domain name is identical to the PURDEY trade mark in which the Complainant enjoys substantial protection. See *inter alia* Rollerblade Inc v McCrady Case No D2000 – 0429.
- b) There is no obvious reason for the Registrant to have adopted the name contained in the offending domain name, which is preventing the Complainant from exercising its rights in the primary domain accessed by most South Africans.

4.1 Complainant's Rights

- 4.1.1 The Complainant has substantive rights in the PURDEY trade mark as is apparent from the above.

4.2 Abusive Registration

4.2.1 The disputed domain name was registered in a manner which takes unfair advantage of the Complainant's rights, as set out above.

4.2.2 The disputed domain name is therefore an abusive registration.

5. Decision

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

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VICTOR WILLIAMS
SAIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za