

Decision

ZA2025-0526

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

ADJUDICATOR'S SUMMARY DECISION

CASE NUMBER:	ZA2025-0526
DECISION DATE:	6 March 2025
DOMAIN NAME	<nkomatinickel.co.za>
THE DOMAIN NAME REGISTRANT:	Enkido Anunnaki
REGISTRANT'S LEGAL COUNSEL:	N/A
THE COMPLAINANT:	African Rainbow Minerals Limited
COMPLAINANT'S LEGAL COUNSEL:	Adams & Adams
2 nd LEVEL ADMINISTRATOR:	ZARC

1. The Parties

Complainant:

African Rainbow Minerals Limited

Johannesburg

South Africa

Registrant:

Enkido Anunnaki

Johannesburg

South Africa

2. The Domain Name: NKOMATINICKEL.CO.ZA

3. Notification of Complaint (13 January 2025)

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)

- 7.1. The Adjudicator is satisfied that the Complainant has satisfactorily established that the domain name is identical or similar to a name or mark in which the Complainant has rights, as required by Regulation 3(1)(a).
- 7.2. The Adjudicator is furthermore satisfied that the Complainant has established that the domain name, in the hands of the Registrant is an abusive registration, in terms of the provisions of Regulation 4(1).
- 7.3. In terms of Regulation 18(4), in order for a matter to be decided on a summary basis in the complainant's favour, the Adjudicator must be satisfied 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, notwithstanding that delivery failures were received in respect of SAIPL's emails of 13 January 2025 and 14 February 2025.
- 7.4. In addition to the listed email address as found in the whois records (Annexure **NKM 1**), the Complainant provided additional known email addresses of the Registrant and/or the entity or persons behind the registration of the domain name. This is evidenced from Annexures **NKM 13**, **NKM 16** and **NKM 18**). Furthermore, as can be seen on Annexure **NKM 20**, at some point in time, at least one or more of the email addresses appeared

to be active and used by the person or entity behind the registration of the domain name.

- 7.5. The Complainant expended additional care in providing these email addresses to the service provider to assist and aid in the communication of the Complaint to the Registrant.
- 7.6. In considering the complaint, the only alternative, based on the Registrant's details known to the Complainant, would be to notify the Registrant of the complaint by serving a physical copy of the Complaint on Registrant's listed physical address as obtained from the Whois database, and reflected on Annexure NKM 1. When considering the Registrant details as obtained by ZARC, the Registrant's listed physical address of 18A Gill Street, Observatory, Johannesburg, 2198, is the address listed for the Astronomical Society of South Africa – Johannesburg Centre. The Adjudicator takes note that this listed address is inaccurate, alternatively, false and misleading, and as such physical service would not be possible.
- 7.7. In terms of Regulation 4(d) of the ADR Regulations, the use of false or incomplete contact details by the Registrant on the Whois database is furthermore indicative of a domain name being an abusive registration.
- 7.8. Accordingly, by providing a clearly incorrect physical address, the Registrant is not only conducting abusive behaviour, but also making physical service of the complaint impossible, and is essentially evading service.
- 7.9. The attempts by the Registrant to evade service, along with the Complainant and service providers efforts and attempts to ensure that all reasonable steps were taken to communicate the Complaint to the Registrant, constitutes satisfactory evidence that the Registrant has been duly notified of the Complaint in terms of Regulation 18(4)(a) read with Regulation 15(1).
- 7.10. In support of the decision, the Adjudicator refers to the decision of **ZA2018-0314**, dealing with reasonable steps taken by the Complainant to ensure that all reasonable steps are taken to serve the Complaint on the Registrant.
- 7.11. Lastly, the Adjudicator takes note that an associated Complaint lodged by the Complainant against <nkomatimine.co.za> (Case no.: **ZA2025-0525**)

operated by the same persons or entity behind the <nkomatinickel.co.za> domain name, has been adjudicated and found that the domain be transferred. The persons or entity behind the domain names are one and the same, as evidenced by the evidence adduced in this Complaint. Accordingly, the Registrant ought to have known that its fraudulent domain registrations are being acted against. I see no reason why this Complaint should not follow suit.

8. Decision

8.1. For the foregoing reasons, in accordance with Regulation 9(1)(a) of the ADR Regulations, the Adjudicator orders that the domain name <nkomatinickel.co.za> be transferred to the Complainant.

.....
VANESSA FERGUSON

SAIIPL SENIOR ADJUDICATOR

www.DomainDisputes.co.za

.....
ADRIAAN HEYNS

SAIIPL TRAINEE ADJUDICATOR

www.DomainDisputes.co.za