

ADJUDICATOR DECISION

CASE NUMBER:	ZA2015-0210
DECISION DATE:	15 October 2015
DOMAIN NAME	hippocarhire.co.za
THE DOMAIN NAME REGISTRANT:	TravelCape Travel Centre (Pty) Ltd
REGISTRANT'S LEGAL COUNSEL:	Spamer Triebel Inc
THE COMPLAINANT:	Hippo Comparative Services (Pty) Ltd
COMPLAINANT'S LEGAL COUNSEL:	Moore Attorneys
THE 2 nd LEVEL DOMAIN NAME ADMINISTRATOR:	UniForum SA (CO.ZA Administrators)

1) Procedural History

- a) The Dispute was filed with the South African Institute of Intellectual Property Law (the "SAIIPL") on 6 August 2016. On 11 August 2015 the SAIIPL transmitted by email to UniForum SA a request for the registry to suspend the domain name at issue, and on 12 August 2015, UniForum SA confirmed that the domain name had indeed been suspended. The SAIIPL verified that the 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 13 August 2015. In accordance with the Regulations the due date for the Registrant's Response was 10 September 2015. The Registrant requested a short extension of the term within which to respond, and was granted until 14 September to do so. The Response was duly submitted on 14 September 2015, 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 16 September 2015.
- c) In accordance with the Regulations the due date for the Complainant's Reply was 23 September. The Complainant submitted its Reply on 17 September 2015.
- d) The SAIIPL appointed Vanessa Lawrance as the Adjudicator in this matter on 28 September 2015. The Adjudicator has 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 Registrant registered the domain on 4 October 2011.

- b) The Complainant applied for the registration of the trademark HIPPO and device in class 39 on 12 March 2013, and the trademark was so registered.
- c) The Complainant is part of the Telesure Group of companies that is the proprietor of a number of trademarks, all containing the word HIPPO. The first of these was registered during 2008.

3) Parties' Contentions

- a) Complainant
 - i) The Complainant has since 2007 built up a considerable reputation and has spent considerable time, effort and money in marketing, advertising and promoting its HIPPO trade mark and the services offered on its website www.hippo.co.za.
 - ii) The Complainant launched its car hire service in partnership with Travelstart in 2009, and is currently partnered with Rentalcars.com, and offers car hire services with the support of rentalcars.com.
 - iii) The disputed domain name is similar to a name or mark in which the Complainant has rights.
 - iv) The registration of the domain name www.hippocarhire.co.za is an abusive registration.
 - v) The Registrant is not making use of the disputed domain.
- b) Registrant
 - i) The registration of the domain name www.hippocarhire.co.za is not abusive.
 - ii) The Registrant does not offer the same services as the Complainant.
 - iii) The registration by the Registrant of the domain name pre-dates the date on which the trade mark in class 39 was registered by the Complainant.
 - iv) The disputed domain name was registered in good faith.
 - v) The word HIPPO is descriptive, and has become customary in the ordinary language.

4) Discussion and Findings

- a) The disputed domain name www.hippocarhire.co.za is confusingly similar to the domain name www.hippo.co.za.
- b) The Complainant has, since 2007, built up a reputation, and has invested considerable time, effort and money in promoting the HIPPO trade mark, which it uses for its various services *inter alia* car hire. The allegations made in this regard by the Complainant are not challenged by the Registrant.
- c) The Complainant has made prior use of the name HIPPO in the car hire industry, and the Registrant and the Complainant offer substantially the same services. In this regard the allegations made by the Complainant in respect of its business association with Travelstart and Rentalcars.com are not challenged by the Registrant. The Complainant has adduced evidence to show its use of the HIPPO trademark in respect of car hire services, which evidence is not seriously challenged by the Registrant. In this regard reference is made to Annexure UPS 4. Furthermore the Registrant annexed to its own papers as Annexures LDK 1 and LDK 3 evidence, which shows the use by the Complainant of its HIPPO trade mark in relation to car hire services.
- d) The word HIPPO is, although a common word in the English language, when used in the way that the Complainant uses it, to be protected. If this was not so, the trademarks of the Complainant would not have been accepted for registration.
- e) **Complainant's Rights**
For the reasons stated the Complainant has rights in respect of the trademark HIPPO, and the associated use of the word HIPPO in respect of car hire services.
- f) **Abusive Registration**
The disputed domain name was registered in a manner and at a time, which takes unfair advantage of the substantial repute and reputation of the Complainant, and its vested and registered rights in the name HIPPO.

5) Decision

For all the foregoing reasons, in accordance with Regulation 9, the Adjudicator (or Panel if 3 Adjudicators) orders that the domain name, hippocarhire.co.za be transferred to the Complainant.

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VANESSA LAWRENCE
SAIIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za