

Decision

ZA2019-0380

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

ADJUDICATOR'S SUMMARY DECISION

CASE NUMBER:	ZA2019-0380
DECISION DATE:	01 November 2019
DOMAIN NAME	cumtree.co.za, cumtreedating.co.za, cumtreegirls.co.za
THE DOMAIN NAME REGISTRANT:	Cumtree & Greg Fredericks
REGISTRANT'S LEGAL COUNSEL:	none
THE COMPLAINANT:	Gumtree.com Limited
COMPLAINANT'S LEGAL COUNSEL:	Hogan Lovells (Paris) LLP – David Taylor
2 nd LEVEL ADMINISTRATOR:	ZACR

1. The Parties

Complainant:

Gumtree.com Limited
107 Cheapside
London EC2V 6DN
United Kingdom

Registrant:

Cumtree & Greg Fredericks
Cumtree House
88 Ranelagh Road, Claremont
Cape Town 7806
South Africa

2. The Domain Names: CUMTREE.CO.ZA, CUMTREEDATING.CO.ZA
CUMTREEGIRLS.CO.ZA

3. Notification of Complaint (05 September 2019)

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 Complainant lodged a single dispute against what appear, *prima facie*, to be multiple domain names owned by different Registrants. The domain names all commence with “cumtree”, the physical addresses of the Registrant for all is similar and two list the same email address. There therefore seems to be a connection between the Registrants, or the domain names are owned by the same party. In addition, the Registrant has raised no issue with the consolidation of the Complaints. The Adjudicator accordingly accepts the single complaint against all three domain names.

The Registrant did address an email to the adjudication authority, merely advising that it did not have time to comply with the requirements for a response, as set out in the Alternative Dispute Regulations read with the provider’s supplementary procedure. This mail did not comply with the requirements of the Regulations, particularly Regulation 18 thereof. The Adjudicator is particularly concerned that the email sent in Answer did not comply with Regulation 18(f). The email was sent after the period granted for a response. It did not address the claims to rights made in the Complaint.

The adjudicator informed the Registrant that its email response was deficient, and allowed a further five days for the filing of a proper response. The Registrant merely sent another email response (once again after the five-day additional period allowed), which also did not comply with the requirements set by the Regulations. The Adjudicator is satisfied that no acceptable Answer was submitted and that this matter can be dealt with on an unopposed basis.

8. Decision

For all the foregoing reasons, in accordance with Regulation 9, the Adjudicator orders that the domain names cumtree.co.za, cumtreedating.co.za, cumtreegirls.co.za be transferred to the Complainant

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