

ADJUDICATOR'S SUMMARY DECISION

CASE NUMBER:	ZA2019-0389
DECISION DATE:	8 MAY 2020
DOMAIN NAME	RENAULTSPECIALIST.CO.ZA
THE DOMAIN NAME REGISTRANT:	RONNEY REECE
REGISTRANT'S LEGAL COUNSEL:	CRAWFORD & ASSOCIATES
THE COMPLAINANT:	RENAULT S.A.S
COMPLAINANT'S LEGAL COUNSEL:	ADAMS & ADAMS
THE 2 nd LEVEL DOMAIN NAME ADMINISTRATOR:	ZACR (CO.ZA Administrators)

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1. Procedural History

- a. The Dispute was filed with the South African Institute of Intellectual Property Law (the "SAIPL") on **12 December 2019**. 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 **9 January 2020**. In accordance with the Regulations the due date for the Registrant's Response was **6 February 2020**.
- c. The Registrant did not submit a response before the **6 February 2020** deadline and, accordingly, the SAIPL notified the Registrant of its default on **14 February 2020**.
- d. The SAIPL appointed **Deon Bouwer** as the Adjudicator in this matter on **19 February 2020**. The Adjudicator has submitted a Statement of Acceptance and Declaration of Impartiality and Independence, as required by the SAIPL to ensure compliance with the Regulations and Supplementary Procedure.
- e. On **21 February 2020**, the Registrant, belatedly, submitted its Response. However, the Adjudicator ruled that the Regulations are specific and clear on the time period that a party is allowed to submit its response to a complaint and, accordingly, that the Response was submitted out of time. The Registrant was on **3 March 2020** afforded an opportunity to bring a condonation application by **6 March 2020**, failing which the Adjudicator would decide the Complaint on the facts set out in the Complaint.

CONDONATION

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- f. The Registrant submitted an application for condonation on **9 March 2020**. The Complainant opposed the application for condonation and filed its answering affidavit in the condonation application on **12 March 2020**.
- g. In the application, the Registrant relies on vague statements to explain his non-compliance with the time period imposed by the Regulations. He also, submits that the Response was "*only a couple of days late*".
- h. The Registrant further relies on a vague submission that he has "*a good prospect of success*".
- i. The Complainant rejected the Registrant's submissions and evidence and requested that the application for condonation be dismissed.
- j. It is trite that for the condonation application to succeed, the Registrant has to, amongst others,:
- provide an explanation for the period of the lateness and the failure to comply with time frames;
 - show that the degree of lateness or non-compliance with the prescribed time frame is not excessive;
 - show that he has a *bona fide* defence; and
 - show that there has not been an unnecessary delay in bringing the proceedings.
- k. The Registrant fails to provide any facts substantiating or explaining his non-compliance with the time period imposed by the Regulations.
- l. Although the Registrant is, based on the facts at hand, represented by his representative lawyers on a *pro bono* this does not explain his failure to comply with the deadlines. To the contrary, from the

letter of his lawyer dated 17 January 2020, where his lawyer states that "*..our client has until the 6th of February 2020 to respond and shall do so*" (emphasis added), it is clear that his lawyer was well aware of the deadline within which to file a response. There is no evidence or suggestion that the Registrant was not aware of the deadline nor is there any reasonable explanation why the deadline was not met.

- m. The Registrant did not file his Response "*only a couple of days late*", as alleged. To the contrary, the Response was filed more than 2 weeks late and without any explanation proffered for the lengthy delay.
- n. The Registrant further elected to file his Response only 2 days after it had been commissioned, even though having been notified, on **14 February 2020**, of his default and the effect of his failure to file his Response timeously, namely that the matter would proceed to adjudication.
- o. The Registrant, also, elected to file his application for condonation some 3 days after the deadline imposed, again, without making any effort to explain his failure to meet the deadline.
- p. The Registrant completely fails to substantiate his submission to the effect that he has "*a good prospect of success*".
- q. The Registrant has, on his own version, also no relationship with nor is he certified as a "Renault specialist" by the Complainant.
- r. The Registrant fails to present any evidence to prove that he has any entitlement or right to use the Disputed Domain name. The effect of the aforementioned is devastating to the case of the Registrant, especially, against the background of the well documented rights that the Complainant holds in the RENAULT trade mark. The Registrant submission that he has "*a good*

prospect of success” is neither evidence nor supported by the facts that he relies on.

- a. The explanation and evidence on which the Registrant relies is also, in the circumstances, unsatisfactory in material respects.
- b. If the cumulative effect of the aforementioned is considered, the Adjudicator finds that the Registrant has failed to provide a reasonable and acceptable explanation for the delay in filing his Response and, also, that the Registrant has shown a total disregard for the Regulations and the time periods imposed therein.
- c. The Adjudicator further finds that the Registrant has failed to show that he has a *bona fide* defence to the Complaint.
- d. The Registrant’s application for the condonation of the late filing of his Response is accordingly dismissed.
- e. The Complaint must, therefore, be adjudicated on the basis that the Complaint is not opposed.

2. Notification of Complaint (09 January 2020)

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

3. 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

4. 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

5. 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

6. Comments (Optional)

None.

7. Decision

The domain name [renaultspecialist.co.za](#) is to be transferred to the Complainant.

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DEON BOUWER
SAIPL SENIOR ADJUDICATOR
www.DomainDisputes.co.za