

ADMINISTRATIVE PANEL DECISION

Sun International (South Africa) Limited v. Malu Yantumba
Case No. D2025-3527

1. The Parties

The Complainant is Sun International (South Africa) Limited, South Africa, represented by Adams & Adams Attorneys, South Africa.

The Respondent is Malu Yantumba, South Africa, self-represented.

2. The Domain Names and Registrar

The disputed domain names <suncitymarathon.com> and <suncitymarathon.org> are registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2025. On September 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 1, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on September 2, 2025, providing the registrant and contact information disclosed by the Registrar.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 22, 2025. The Response was filed with the Center on September 22, 2025.

The Center appointed Warwick A. Rothnie as the sole Panelist in this matter on October 6, 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant has been operating the resort known as “Sun City” or “Sun City Resort” in South Africa since 1979. At the resort, the Complainant provides a range of gaming, hospitality, and accommodation services. According to Wikipedia,¹ the resort is located some 140 kilometers northwest of Johannesburg in South Africa, near a city called Rustenburg and bordering the Pilanesberg National Park.

The Complainant has registered the domain name <suncity.co.za> which redirects to the landing page for “Sun City Resort” on the website at “www.suninternational.com”.

The Complainant claims to be the leading casino operator in the southern hemisphere and has a market capitalization of approximately USD 1.4 billion. It commands a 42.5% share of the casino market in South Africa. According to the Complaint, the Complainant's group has invested more than USD 1.5 billion in new tourism infrastructure over time for its resort. The Complainant employs some 10,000 people and claims to have indirectly created 50,000 new employment opportunities in the broader tourism industry.

The Complaint includes information that the Complainant has spent USD 7.7 million dollars in advertising and promotion since 2016. This includes:

- USD 992,000 in 2016;
- USD 2.4 million in 2017;
- USD 1 million in 2018;
- USD 705,000 in 2019;
- USD 511,000 in 2022;
- USD 493,000 in 2023; and
- USD 1.2 million in 2024.

The Complainant's resort has been featured in travel articles in magazines, websites and travel blogs, and has been awarded a number of travel awards, including in 2019 being awarded “Africa's Leading Resort” by World Travel Awards and “Africa's Leading Casino Resort”.

The Complainant's Facebook page has over 350,000 followers. Its Instagram account has over 97,000 followers and its X/Twitter account over 27,000 followers.

The Complaint includes evidence that the Complainant has registered a number of trademarks for SUN CITY in a number of countries or jurisdictions around the world. The earliest of these are South African registered trademarks numbers 1978/05183 and 1978/05184, both of which have been registered with effect from October 27, 1978, with respect to education and entertainment services in International Class 41 and travel and accommodation services in International Class 42.

According to the Whois reports, both disputed domain names were registered on July 24, 2025.

¹ It is accepted that a Panel may undertake limited factual research into matters on the public record in the exercise of the powers conferred by paragraphs 10 and 12 of the Rules: WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.8.

At this stage, neither disputed domain name resolves to an active website. Nor has the Respondent suggested they have been used in any other way yet.

It appears that at some point the Respondent approached the Complainant, and some negotiations occurred about putting on a “Sun City Marathon”. However, this proposal did not proceed. It is not clear from the file whether the Respondent registered the disputed domain names before approaching the Complainant or during the negotiations. It does appear, however, that one of the reasons for the negotiations ceasing was the Complainant's demand that the Respondent deregister the disputed domain names.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

The first element that the Complainant must establish for each disputed domain name is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has proven ownership of numerous registered trademarks for SUN CITY including the two South African registered trademark referred to in section 4 above.

In undertaking the comparison between the disputed domain names and the Complainant's trademark, it is permissible in the present circumstances to disregard the generic Top-Level Domain (gTLD) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the “.com” and “.org” gTLDs, the disputed domain names both consist of the Complainant's registered trademark and the term “marathon”. As this requirement under the Policy is essentially a standing requirement, the addition of this term does not preclude a finding of confusing similarity. See e.g. [WIPO Overview 3.0](#), section 1.8. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

The Respondent points out that the name “Sun City” is a place name in some parts of the world including in Arizona, California, Florida and Texas in the United States of America – where the Complainant does not have a registered trademark. This, however, misunderstands the nature of the inquiry at this stage which simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of “likelihood of confusion” under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of

infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g. [WIPO Overview 3.0](#), section 1.7.

Accordingly, the Panel finds that the Complainant has established that both disputed domain names are confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a Respondent can show rights or legitimate interests in a domain name.

While the overall burden of proof in UDRP proceedings is on the Complainant, Panels have recognized that proving a Respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the Respondent. As such, where a Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

There is no dispute between the Parties that:

- (1) The Respondent registered the disputed domain names after the Complainant began using the trademark and also after the Complainant had registered its trademark;
- (2) The Respondent is not affiliated with the Complainant;
- (3) The Complainant has not otherwise authorised the Respondent to use the disputed domain names;
- (4) The disputed domain names are not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived.

These factors are usually sufficient to establish a prima facie case that the Respondent does not have rights or legitimate interests in a disputed domain name.

As noted above in section 5A, the Respondent contends that the Complainant does not own exclusive rights to the expression “Sun City” all around the world. The Respondent further points out that the expression “Sun City” has a geographical significance and contends that it would be perfectly legitimate for the Respondent to set up and begin operating a marathon in one or other of the cities in the United States called “Sun City”.

The Panel accepts that there are places in the world, including in the United States, called “Sun City”. However, the Complainant's resort is a proprietary name like “Disneyland”, rather than an ordinary geographical descriptor, such as Johannesburg.

On the materials before the Panel, therefore, the Panel does not find that the Respondent has rights or legitimate interests in the disputed domain names.

First, there is no evidence before the Panel that the Respondent has any connection with any of the places in the United States or elsewhere called “Sun City”. Rather, the Respondent is apparently located in Johannesburg, South Africa, close to the location of the Complainant's resort. Having regard to the Complainant's investment in advertising and promotion and the social media following of the accounts relating to the Complainant's resort, the Panel readily infers that the Respondent was well aware of the Complainant's trademark when the Respondent adopted the disputed domain names and did so to take advantage of the association between the name “Sun City” in the disputed domain names and the Complainant's resort.

Secondly, a claim to having made demonstrable preparations to use the disputed domain names in connection with good faith offering of goods or services before notice of the dispute requires clear contemporaneous evidence of such preparations. Mere registration of a disputed domain name is not sufficient in itself. As [WIPO Overview 3.0](#), section 2.2 summarises:

“non-exhaustive examples of prior use, or demonstrable preparations to use the domain name, in connection with a bona fide offering of goods or services may include: (i) evidence of business formation-related due diligence/legal advice/correspondence, (ii) evidence of credible investment in website development or promotional materials such as advertising, letterhead, or business cards (iii) proof of a genuine (i.e., not pretextual) business plan utilizing the domain name, and credible signs of pursuit of the business plan, (iv) bona fide registration and use of related domain names, and (v) other evidence generally pointing to a lack of indicia of cybersquatting intent. While such indicia are assessed pragmatically in light of the case circumstances, clear contemporaneous evidence of bona fide pre-Complaint preparations is required.”

There is no such evidence before the Panel. There might be circumstances where someone actually living in Sun City in Arizona or California (or wherever) or otherwise was actually putting on a marathon event there, could demonstrate rights or legitimate interests in a domain name; but that is not the case here.

Moreover, as already noted, it is clear that the Respondent was well aware of the Complainant and the reputation of its trademark when registering the disputed domain names. Apart from anything else, the Respondent apparently approached the Complainant with a proposal to institute a “Sun City Marathon” event in connection with the Complainant's resort. Attempting to take advantage of the reputation of the Complainant's trademark in such circumstances without the Complainant's permission does not qualify as good faith conduct sufficient to confer rights or legitimate interests under the Policy.

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain names have been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful Complaint: see e.g. *Group One Holdings Pte Ltd v. Steven Hafto* WIPO Case No. [D2017-0183](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the Respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the Complainant.

For the reasons indicated above, it is clear that the Respondent was well aware of the Complainant and the reputation of its trademark when registering the disputed domain names. The Panel readily infers that the Respondent registered the disputed domain names in connection with the Respondent's proposal for a marathon at or associated with the Complainant's resort. Whatever may be the merits of the idea of a marathon associated with the Complainant's resort, attempting to take advantage of and capitalize on the reputation and goodwill in the Complainant's trademark without the Complainant's permission in this fashion qualifies as bad faith under the Policy. Accordingly, the Panel finds that the Respondent registered the disputed domain names in bad faith.

It is also well established under the Policy that passively holding a disputed domain name can qualify as use in bad faith. In circumstances where the Respondent has failed to rebut the allegation that the Respondent has no rights or legitimate interests in the disputed domain names, the Panel considers it appropriate to apply that approach with respect to the disputed domain names and finds that the Respondent's continued holding of the disputed domain names constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel finds that the Respondent has both registered and used the disputed domain names in bad faith under the Policy.

Accordingly, the Complainant has established all three requirements under the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <suncitymarathon.com> and <suncitymarathon.org> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: October 20, 2025