



### Trade Marks ↔ Domains ↔ Company Names

#### The Worst Nightmare Materialised

In recent editions of this newsletter, we have been extremely vocal about protecting all three of these aspects of your business, particularly since they are regulated independently.

The worst-case scenario materialised in the very recent case of *Global Vitality Inc v Enzyme Process Africa (Pty) Limited*. While the judgment is neither surprising, nor precedent setting, it echoes the seriousness of our warnings.

In a nutshell: Global Vitality is the American manufacturer of

nutritional supplements under its **ENZYME PROCESS** brand since 1988. It held a number of US trade marks.

The respondent was appointed to distribute **ENZYME PROCESS** products in South Africa. However, as time went by, the relationship soured. The respondent acted beyond its mandate in four key incidents: (i) it bought similar, unbranded products from other manufacturers, and sold them in South Africa under the **ENZYME PROCESS** trade mark; (ii) it registered a local company under the name "ENZYME PROCESS AFRICA"; (iii) it

registered the domain [www.enzymeprocess.co.za](http://www.enzymeprocess.co.za) in its own name; and (iv) it registered the trade mark **ENZYME PROCESS** in South Africa under its own name.

Beyond terminating the distribution agreement, Global Vitality immediately filed its own South African trade mark applications and instituted proceedings against the

respondent for the revocation of the offending trade mark registrations, the transfer of the offending domain name; an order to change the offending company name;

and passing-off. Ultimately, and unsurprisingly, it was successful in pursuing every one of these claims.

There are a number of lessons that should be taken from this case. First: Global Vitality might have avoided every one of these incidents by taking matters into its own hands at the very start of the distribution relationship: specifically it could have registered its own local company, trade marks and domains – and very easily. In addition: it might have regulated the use of the same in its distribution agreement with the respondent.

Once again, we sound the warning: company name

*The entire nightmare could have been avoided, simply by taking a few, basic steps at the start*

### In This Edition

We hate to say it, but "we told you so" – a nightmare scenario arose for an innocent company, simply because it did not take a few, basic safeguards

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registrations, trade mark registrations and domains are all regulated in separate, independent registries. Holding only one of these is simply not good enough to prevent unscrupulous registrations

being made without your approval. As such, we strongly recommend two things: (i) that defensive registrations are filed to protect your position; and (ii) if your suspicions are raised, have searches

conducted of the relevant Registries. Depending on what is found, appropriate steps may be available to you to have these obstacles removed.

**[Darren Margo & Marius Smif]**

## Labelling Of Food Products

### Inadequate Attention To Regulations Is A Recipe For Disaster

Both manufacturers and retailers of food products will be aware of the (seemingly endless) series of regulations affecting the labelling of products. That may well be, but ignorance of the regulations is no defense, as Woolworths learnt to its great cost earlier this month. When it was discovered that its labels did not take into account the requirements relating to peanuts, it was forced to withdraw no fewer than 12 separate products from its shelves – and quickly. A failure to do so may well have resulted in fines. Apart from the financial loss incurred in the process, Woolies was left red-faced, as the press reported on this widely.

The message is clear: if you're in the business of putting goods on shelves, there can be no excuse for not keeping up to date on the ever growing regulations.

## New Agricultural Remedy Regulations

And while on the topic of delegated legislation and public health & safety: the Department Of Agriculture, Forestry & Fisheries has published two very important Guidelines recently, relating to Agricultural Remedies. One relates to the Registration Process and the other describes the data requirements for these applications. These Guidelines do not apply to Fertilizers, Farm Feeds or Stock Remedies. Copies of those Guidelines are available online, or directly from our office.

## Our New Home!

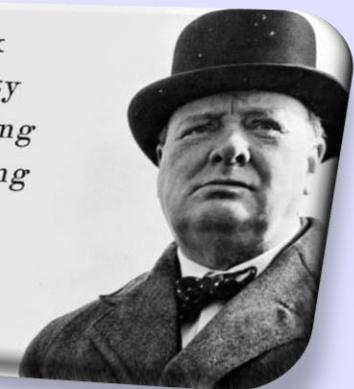
We've completed the move into our beautiful new offices in Rivonia, and look forward to welcoming you for a visit



## The Lighter Side

*For a nation to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle.*

— Winston Churchill



## Proudly South African

### 5 Fantastic South African inventions

You may find yourself a little surprised and, we hope, considerably patriotic, to find that each of these is a famous South African invention:

1. **Pratley's Putty** – named eponymously for George Pratley, this is one of a few South African inventions to have made their way to the moon.

2. **The Computed Axial Tomography Scan ("CAT Scan")** is attributed to Allan Cormack & Godfrey Hounsfield of Cape Town

3. **The "Kreepy Krawly"** The famous pool cleaner is the brain-child of Ferdinand Chauvier of Springs. The Kreepy Krawly® trade mark is perhaps as famous as the product that it graces. Notoriously, the invention was the subject of many years' litigation in the Patent Court, extending even after Chauvier's death.

4. **The Cricket Speed Gun** It's not only the Duckworth Lewis

system that was developed in South Africa, the cricket speed gun has its origins here, too, thanks to Mr Henri Johnson

5. **The Dolosse** – another eponymous invention, attributed to Eric Dolosse. These structures are instantly recognisable by their unusual shape and colossal size, placed strategically along coastlines



## New TLDS

Following on from the lead story in this newsletter – A reminder that strict time periods apply before they are made available to the public-at-large – it's always best to apply as soon as possible. A selection of the latest, most popular

TLD	General Availability	TLD	General Availability
<a href="#">.cafe</a>	15 July '15	<a href="#">.mom</a>	02 December '15
<a href="#">.casino</a>	03 June '15	<a href="#">.movie</a>	26 August '15
<a href="#">.chat</a>	20 May '15	<a href="#">.news</a>	15 July '15
<a href="#">.college</a>	29 September '15	<a href="#">.ngo</a>	06 May '15
<a href="#">.coupons</a>	26 August '15	<a href="#">.one</a>	20 May '15
<a href="#">.courses</a>	23 September '15	<a href="#">.online</a>	26 August '15
<a href="#">.date</a>	01 July '15	<a href="#">.plus</a>	08 July '15
<a href="#">.design</a>	12 May '15	<a href="#">.rent</a>	24 September '15
<a href="#">.download</a>	04 August '15	<a href="#">.review</a>	01 July '15
<a href="#">.earth</a>	19 November '15	<a href="#">.sale</a>	06 May '15
<a href="#">.express</a>	15 July '15	<a href="#">.school</a>	03 June '15
<a href="#">.fans</a>	02 September '15	<a href="#">.show</a>	29 July '15
<a href="#">.fashion</a>	15 April '15	<a href="#">.site</a>	15 July '15
<a href="#">.film</a>	06 October '15	<a href="#">.ski</a>	08 September '15
<a href="#">.fit</a>	29 April '15	<a href="#">.soccer</a>	26 August '15
<a href="#">.flowers</a>	07 April '15	<a href="#">.studio</a>	28 October '15
<a href="#">.football</a>	03 June '15	<a href="#">.style</a>	20 May '15
<a href="#">.fyi</a>	02 September '15	<a href="#">.sucks</a>	21 June '15
<a href="#">.game</a>	07 October '15	<a href="#">.team</a>	29 July '15
<a href="#">.gold</a>	08 July '15	<a href="#">.tech</a>	05 August '15
<a href="#">.jewelry</a>	29 July '15	<a href="#">.tickets</a>	14 September '15
<a href="#">.law</a>	19 October '15	<a href="#">.tours</a>	08 July '15
<a href="#">.live</a>	28 October '15	<a href="#">.trading</a>	09 November '15
<a href="#">.loan</a>	04 August '15	<a href="#">.video</a>	06 May '15
<a href="#">.lol</a>	11 August '15	<a href="#">.vote</a>	17 February '15
<a href="#">.love</a>	17 July '15	<a href="#">.wedding</a>	08 April '15
<a href="#">.markets</a>	18 June '15	<a href="#">.win</a>	04 August '15
<a href="#">.men</a>	16 September '15		

## Social Responsibility

Two charities, in particular, are very close to our heart. Please take a moment to explore their web sites, and perhaps make a donation to these very worthy causes



### Animals in Distress

web: [www.animalsindistress.org.za](http://www.animalsindistress.org.za)  
email: [animals@animalsindistress.org.za](mailto:animals@animalsindistress.org.za)

tel: 011 466 0261  
fax: 011 466 0262  
P O Box 391164 Bramley 2018



### SPCA - Sandton

web: [www.sandtonspca.org.za](http://www.sandtonspca.org.za)  
email: [spcasan@mweb.co.za](mailto:spcasan@mweb.co.za)

tel: 011 444 7730  
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For any advice or further information on any of these topics:



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