



**IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA
HELD IN PRETORIA**

Case number: CT02027/ADJ/2024

In the matter between:

AFRICAN RAINBOW MINERALS LIMITED

Applicant

and

AFRICAN RAINBOW HEALTHCARE (PTY) LTD
(2021/409279/07)

First Respondent

COMMISSIONER OF THE COMPANIES AND
INTELLECTUAL PROPERTY COMMISSION

Second Respondent

Tribunal member: D Terblanche

Date : 20 January 2026

Decision (Reasons and Order)

THE PARTIES

- 1 The Applicant in this matter is African Rainbow Minerals Limited, a company that is duly incorporated and registered in accordance with the laws of the Republic of South Africa. The company bears the registration number 1933/004580/06, and its registered address is 29 Impala Road, Chislehurst, Gauteng, 2196 ("the Applicant").

- 2 The First Respondent is African Rainbow Healthcare (Pty) Ltd. This entity is incorporated and registered in the Republic of South Africa, with registration number 2021/409279/07. The First Respondent have its registered address recorded as 341 Rigel Avenue, Waterkloof Ridge, Pretoria, Gauteng, 0181. The sole director of the First Respondent is Terrence Omdutt Kommai ("the director").
- 3 The Second Respondent is the Commissioner of Companies and Intellectual Property Commission ("the Second Respondent" and/or "CIPC"), who has been appointed in terms of Section 189 of the Companies Act 7 of 2008 (the Act). The Second Respondent is cited in his official capacity, being responsible for performing the functions of the Commission as established under the Act. No order regarding costs is sought against the Second Respondent.

APPLICATION

4. This application is brought under Section 160 of the Act. The Applicant seeks an order declaring that the First Respondent's name does not meet the requirements of Sections 11(2)(a)(ii), 11(2)(b), and 11(2)(c)(i). It requests that the company be directed to change its name in accordance with Section 160, specifically Section 160(3)(b)(ii).

RELIEF SOUGHT

5. The Applicant is seeking the following orders from the Tribunal:
 - a. An order directing the First Respondent to change its name so that it does not include the trademark AFRICAN RAINBOW or any words or phrases that could be confusingly or deceptively similar to the AFRICAN RAINBOW trademarks;
 - b. If the First Respondent does not comply with the above order within two weeks from the date of the order, an order that the Second Respondent, under Section 160(3)(b)(ii) read with Section 14(2) of the Companies Act, must change the First Respondent's name on the companies register to its company registration number, "2022/698929/07", as its new company name;
 - c. An order for costs in favour of the Applicant if the First Respondent opposes this application; and

- d. Such further and/or alternative relief as the Tribunal may grant.

PROCEDURAL BACKGROUND AND APPLICATION FOR DEFAULT ORDER

6. On 24 October 2024, the Applicant filed this application under Section 11 read with Section 160 of the Companies Act, 2008, seeking relief against the First Respondent, African Rainbow Healthcare (Pty) Ltd.
7. Service of the Main Application was properly effected. It was served on the First Respondent via the sheriff at its registered address on 29 October 2024, and electronically on its director on 30 October 2024, within the prescribed five-business-day period. In terms of Regulation 143, the First Respondent's answering affidavit was therefore due by 27 November 2024.
8. The First Respondent failed to file an answer. Instead, it sought an extension via a condonation application. The Tribunal granted this application on 8 April 2025, ordering the First Respondent to file its answering affidavit within 30 days, by 23 May 2025.
9. The First Respondent has failed to comply with this Tribunal order. As of the date of filing this application for a default order, no answering affidavit or any further interlocutory application has been submitted. Furthermore, the First Respondent's name remains unchanged.
10. Consequently, the Applicant now seeks a default order under Regulation 153 of the Companies Regulations.

THE APPLICANT'S BACKGROUND AND TRADE MARKS

11. The Applicant is a prominent South African diversified mining and minerals company founded by Dr Patrice Motsepe, who serves as its Executive Chairman. Its corporate lineage extends back to 1933, and it currently operates significant mining ventures across South Africa and Malaysia, employing thousands. The Applicant and its

business are widely profiled in media and financial publications, where it is commonly referred to as "African Rainbow" or "ARM."

12. The Applicant holds substantial trademark rights in the AFRICAN RAINBOW and AFRICAN RAINBOW MINERALS marks. It is the proprietor of multiple trademark registrations dating back to 2005, covering a broad range of classes including metals, jewellery, retail, mining, construction, and professional services.
13. Additionally, it has pending applications for the standalone AFRICAN RAINBOW mark filed in 2017. These registered rights are valid, enforceable, and have been consistently renewed. Critically, all these rights predate the incorporation of the First Respondent by many years.
14. Through decades of continuous, substantial, and widespread use in commerce, the Applicant has built significant goodwill and an exclusive reputation in these trademarks. They are now distinctive of the Applicant's goods and services and are closely associated with its business in the public mind. Consequently, the AFRICAN RAINBOW and AFRICAN RAINBOW MINERALS marks qualify for robust protection as well-known trademarks under statute and are also safeguarded against passing off under common law.

THE FIRST RESPONDENT'S CONDUCT

15. The First Respondent, African Rainbow Healthcare (Pty) Ltd, was incorporated on 16 February 2021.
16. The Applicant became aware of its existence in February 2024 when its attorneys identified the name during a routine search of the CIPC's online records. This search further revealed that the same director had registered other companies incorporating the Applicant's well-known trademark, namely African Rainbow Media and African Rainbow Laboratories, against which separate objections have been lodged.

17. On 20 February 2024, the Applicant's attorneys sent a letter of demand to the director's email address, asserting the Applicant's trademark rights and demanding a change of name.
18. In response, the First Respondent requested copies of trademark registration certificates, which were promptly provided on 28 February 2024, along with an explanation of the well-known status and common law rights in the AFRICAN RAINBOW mark and references to prior successful Tribunal rulings.
19. Thereafter, the First Respondent's correspondence adopted a dilatory and obstructive tone, shifting focus to irrelevant requests for confidential internal documents such as the attorneys' mandate, partnership agreement, and licensing details. The Applicant, on 25 March 2024, declined to provide these documents as irrelevant and afforded the Respondent a final opportunity to comply voluntarily, again citing authoritative Tribunal precedents. The First Respondent did not provide a substantive reply and has taken no steps to change its name.
20. The Applicant has therefore been compelled to seek formal relief.

GROUND FOR OBJECTION

21. The continued registration of the offending name causes ongoing prejudice. It deceives the public by falsely implying an association with the Applicant and unfairly damages the exclusive and distinctive character of the Applicant's well-known AFRICAN RAINBOW trademark.
22. A default order is therefore both procedurally appropriate and substantively necessary to grant the relief sought.
23. Section 160(1) of the Act provides that:
"... any other person with an interest in the name of a company, may apply to the Companies Tribunal in the prescribed manner and form for a determination whether the name, or the reservation, registration or use of the name, or the

transfer of any such reservation or registration of a name, satisfies the requirements of this Act, ”

24. The Applicant has an interest in the name of the First Respondent for the purpose of Section 160 of the Act, as the first two words of the First Respondent's company name are identical to the first two words Applicant's well-known and prior registered AFRICAN RAINBOW MINERALS trade mark, in which the Applicant has a major and direct commercial interest.

25. Section 160(2)(b) provides that:

"An application in terms of subsection (1) may be made:

(b) on good cause shown at any time after the date of the reservation or registration of the name that is the subject of the application, in any other case."

26. This application has been brought without undue delay and is supported by the Applicant's established history of successfully enforcing its trademark rights before this Tribunal.

27. The Applicant submitted that there are good grounds for alleging that the First Respondent's name offends against the provisions of section 11(2) of the Act. The application is founded on a clear contravention of Section 11(2) of the Act.

28. Section 11(2) (b) and (c) of the Act provides that:

"The name of a company must

(b) not be confusingly similar to a name, trade mark, mark, word or expression contemplated in paragraph (a) unless,

(i) in the case of names referred to in paragraph (a)(i), each company bearing any such similar name is a member of the same group of companies;

(ii) in the case of a company name similar to a defensive name or to a business name referred to in paragraph (a)(ii), the company, or a person who controls the company, is the registered owner of that defensive name or business name;

- (iii) *in the case of a name similar to a trade mark or mark referred to in paragraph (a)(iii), the company is the registered owner of the business name, trade mark, or mark, or is authorised by the registered owner to use it; or*
- (iv) *in the case of a name similar to a mark, word or expression referred to in paragraph (a)(iv), the use of that mark, word or expression by the company is permitted by or in terms of the Merchandise Marks Act, 1941.*
- (c) *not falsely imply or suggest, or be such as would reasonably mislead a person to believe incorrectly, that the company-*
 - (i) *is part of, or associated with, any other person or entity...";*

29. The First Respondent's name, "African Rainbow Healthcare," is confusingly similar to the Applicant's well-known and prior-registered AFRICAN RAINBOW MINERALS and AFRICAN RAINBOW trademarks, contrary to Section 11(2)(b). The dominant and distinctive element of the Respondent's name is the phrase "AFRICAN RAINBOW," which is identical to the Applicant's trademarks. The addition of the descriptive and industry-specific term "Healthcare" does not mitigate this substantial and confusing similarity.
30. The addition of the descriptive word "healthcare", which is defined as *'the activity or business of providing medical services'*, after the Applicant's AFRICAN RAINBOW trade mark in the offending company name, is not sufficient to avoid confusion in the market place. This word shall be understood by people encountering the company as being descriptive of the service that this company offers or intends to offer, and does not assist in distinguishing the First Respondent's company name from the Applicant. Members of the public encountering the First Respondent's name are likely to assume that the name refers to another entity within the Applicant's own group of companies and that the Applicant has started a business venture in the healthcare industry.
31. The First Respondent is not in any way connected to the Applicant, and it is not authorised by the Applicant to use the AFRICAN RAINBOW MINERALS and AFRICAN RAINBOW trade marks.

32. By appropriating the Applicant's distinctive and well-known name, the Respondent's name falsely implies or suggests an association with the Applicant's corporate group, contravening Section 11(2)(c). The Respondent is neither connected to nor authorised by the Applicant.
33. The registration and use of this name will cause significant prejudice. It is likely to deceive the public, who may mistakenly attribute the Respondent's goods or services—particularly any that are of poor quality—to the Applicant. This poses a direct and irreparable risk of reputational harm and unfairly dilutes the exclusive and distinctive character of the Applicant's trademarks.
34. The Applicant's history of successfully enforcing its rights before this Tribunal against similarly named entities reinforces the merits of this objection.

ANALYSIS AND EVALUATION

35. This application is unopposed. There is no version by the First Respondent before the Tribunal. The Tribunal's analysis and findings are based on the Applicant's submissions and the evidence the Applicant supplied.

Jurisdiction and Standing

36. The Tribunal has jurisdiction under Section 160 of the Companies Act, 2008. The Applicant has a direct and substantial interest in the name of the First Respondent as its well-known and registered trademark "AFRICAN RAINBOW" is wholly incorporated within the First Respondent's name, giving it standing to bring this application.

Procedural Compliance and Default

37. Service of the Main Application was properly effected on the First Respondent within the prescribed period via the sheriff and electronically.

38. The First Respondent failed to file an answering affidavit by the initial due date of 27 November 2024.
39. The Tribunal granted a condonation application, giving the First Respondent a final 30-day extension until 23 May 2025 to file its answer.
40. The First Respondent has failed to comply with this Tribunal order. It has not filed an answering affidavit or any further interlocutory application. The Respondent is therefore in default.
41. The Applicant has complied with all procedural requirements and is entitled to seek a default order under Regulation 153.

Substantive Merits: Contravention of Section 11(2)

42. On the uncontested facts, the Applicant has established a clear case that the First Respondent's name contravenes the Companies Act.

42.1 The Applicant's Prior Rights: The Applicant has proven extensive, longstanding, and well-known rights in the AFRICAN RAINBOW and AFRICAN RAINBOW MINERALS trademarks through registrations dating to 2005, pending applications from 2017, decades of substantial use, and significant acquired reputation and goodwill. These rights are valid and predate the First Respondent's incorporation.

42.2 Comparison and Confusing Similarity: The First Respondent's name is "African Rainbow Healthcare (Pty) Ltd." The dominant, distinctive, and memorable element is "AFRICAN RAINBOW", which is identical to the core of the Applicant's trademarks. The addition of the descriptive word "Healthcare" does not negate the overwhelming visual, phonetic, and conceptual similarity. The names are therefore confusingly similar in contravention of Section 11(2)(b).

42.3 False Association: By using the Applicant's distinctive and well-known name as its lead element, the First Respondent's name falsely implies or suggests an

association with the Applicant, its group of companies, or its licensees. This contravenes Section 11(2)(c).

42.4 Absence of Consent: It is confirmed that the First Respondent is not connected to, part of, or authorised by the Applicant to use its trademarks.

42.5 Prejudice and Infringement: The registration and use of the name is likely to deceive the public, cause reputational harm to the Applicant, and unfairly dilute the distinctive character of its well-known marks.

FINDINGS

43. Procedure: The application complies with the prescribed form and procedure. The First Respondent is in default for failing to file an answering affidavit within the time frame stipulated by the Tribunal's order of 8 April 2025.

44. Interest: The Applicant has a direct and substantial interest in the name of the First Respondent for the purpose of Section 160 of the Act.

45. Contravention: The company name "African Rainbow Healthcare (Pty) Ltd" (Registration Number: 2021/409279/07) contravenes Section 11(2)(b) and (c) of the Companies Act, 2008. It is confusingly similar to the Applicant's prior registered and well-known trademarks and falsely implies an association with the Applicant.

46. Default Order: The Applicant is entitled to the default order sought.

ORDER

47. In the result, the following order is made:

47.1 The application for a default order in terms of Regulation 153 of the Companies Regulations, 2011, is GRANTED.

47.2 It is hereby determined that the company name "African Rainbow Healthcare (Pty) Ltd" (Registration Number: 2021/409279/07) does not satisfy the requirements of Section 11(2) of the Companies Act, 2008.

- 47.3** The First Respondent, African Rainbow Healthcare (Pty) Ltd, is hereby directed, in terms of Section 160(3)(b)(ii), to change its company name to one which does not incorporate the words "AFRICAN RAINBOW" and is not confusingly similar to the Applicant's trademarks.
- 47.4** The First Respondent is ordered to file the necessary notice of amendment of its Memorandum of Incorporation with the Companies and Intellectual Property Commission (CIPC) to effect this change within 30 (thirty) calendar days from the date of this order.
- 47.5** Should the First Respondent fail to comply with paragraph 4 of this order within the stipulated 30-day period, the Second Respondent (the Commissioner of the CIPC) is hereby directed, in terms of Section 160(3)(b)(ii) read with Regulation 153(5), to:
- 47.5.1** Change the infringing name of the First Respondent to its registration number, "2021/409279/07 (Pty) Ltd", as its interim corporate name
- 47.5.2** Issue a corrected certificate of incorporation reflecting the interim name.
- 47.6** There is no order as to costs.

Dated at Johannesburg on 20 January 2026.

D Terblanche
Tribunal member