



IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA

CASE NO: CT02446ADJ2025

In the matter between:

MARQUES RUTTER

APPLICANT

and

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION RESPONDENT

Presiding Member:

Brian Jennings

Date of handing down of decision:

3 March 2026

DECISION

Introduction

- 1 The applicant is Marques Rutter.
- 2 The respondent is the Companies and Intellectual Property Commission ("**CIPC**"), a state-owned company which is responsible, *inter alia*, for administering the register of companies in South Africa.
- 3 On 15 October 2025, the applicant filed (Form CoR9.1) to the CIPC to reserve the following names: "CAR FRESH, FRESH CO and FRESH INDUSTRIES". On 16 October, CIPC issued a Confirmation Notice of Name Reservation (Form CoR9.4) indicating that –
 - 3.1 the proposed names are confusingly similar to names already on the register as contemplated in section 11(2) of the Companies Act, 2008 ("**Companies Act**"); and
 - 3.2 the name "FRESH INDUSTRIES", has been reserved in the name of the applicant from 16/10/2025 to 17/04/2026 under reservation number 9445767814.
- 4 The applicant filed a Form CTR142 and an affidavit which was not commissioned by a commissioner of oaths in terms of the Justices of the Peace and Commissioners of Oaths Act 16 of 1963. It is important to note that the affidavit was executed by the applicant on 28 October 2025.
- 5 Following this, the Tribunal, on 29 October 2025, requested the applicant to resubmit an affidavit which had been commissioned by a commissioner of oaths.

- 6 On 31 October 2025, the applicant resubmitted an affidavit which was duly commissioned by a commissioner of oaths and a case number was issued. Following this, the applicant's papers were served on the respondent on 4 November 2025.

Errors

- 7 I note from the papers before me that the commissioned affidavit that was filed by the applicant is dated 28 October 2025, while the relevant member of the South African Police Service (as commissioner of the affidavit) dated his/her certification as 30 October 2025. In light of this, it is clear *ex facie* the affidavit that the applicant did not sign the affidavit in the presence of the commissioner of oaths. The affidavit is therefore not compliant with the Justices of the Peace and Commissioners of Oaths Act 16 of 1963 and the regulations thereto.
- 8 The application is therefore procedurally defective.
- 9 While it is not necessary to proceed further with the application, I also point out that while the Form CTR 142 was submitted by the applicant in his personal capacity, the Form CTR 145 was submitted by Fresh Industries Proprietary Limited (of which the applicant appears to be a director).
- 10 The default application pursuant to the Form CTR 145 is therefore also procedurally defective as Fresh Industries Proprietary Limited has no jurisdictional basis to submit the Form CTR 145 as it was not an applicant pursuant to the proceedings brought in terms of the Form CTR 142.

Order

In the circumstances, I make the following order:

10.1 the application is dismissed.

BRIAN JENNINGS
MEMBER OF THE COMPANIES TRIBUNAL