



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no: CT/02573/ADJ/2026

In the matter between:

WORLDWIDE AUTOMOTIVE GROUP ENTERPRISES

(PTY) LIMITED

Applicant

And

GW TYRE REPAIR PTY) LIMITED

1st Respondent

(Registration No: 2025/023234/07)

And

COMPANIES AND INTELLECTUAL PROPERTY

COMMISSION

2nd Respondent

Presiding Member of the Companies Tribunal: HLALELENI KATHLEEN DLEPU

Date of Decision: 15 April 2026

DECISION and REASONS

1. INTRODUCTION

- 1.1 The applicant is Worldwide Automotive Group Enterprise(Pty) Limited, a company duly incorporated and registered in terms of the laws of the Republic of South Africa with its registered address at Louwlandia Logistics Park, Antila Lane, Louwlandia, Centurion, Gauteng (herein referred to as the Applicant.) The Applicant is the proprietor of statutory and common law rights in the well-known GW trademark.
- 1.2 The first respondent is GW Tyre Repair (Pty) Limited a company duly incorporated in accordance with the company laws of the Republic of South Africa with registration number 2025/023234/07 with its registered address at 154 Mjijwa Street, Zwijde, Port Elizabeth, Eastern Cape 6201 These details for the First Respondent are obtained from the online records of Companies and Intellectual Property Commission('CIPC')
- 1.3 The second respondent is the Companies and Intellectual Property Commission (CIPC) established by Section 189 of the Companies Act with its address at DTI Building, Block F, Meintjies Street, Sunnyside, Pretoria.

2. THE APPLICATION

- 2.1. The Applicant brought this application brought in terms of Section 160 of the Companies Act for an order as follows:
 - 2.1.1. That the First Respondent's company name, G W Tyre Repairs (Pty) Limited does not satisfy the requirements of Section 11(2) (a)(iii),11(2)(b) and 11(2)(c)(i) of the Companies Act.
 - 2.1.2. That the First Respondent be directed to choose a new name, as provided for in Section 160, and sub-section (3)(b)(ii) of the Companies Act.
 - 2.1.3. In the event that the First Respondent fails to comply with the Order as set out in 2.1.1 within a period of sixty (60) days from the date of the order, that

the Second Respondent be directed in terms of Section (160) (3) (b) read with section 14(2) of the Companies Act ,to change the First Respondent' s name to its company name being "2025/023234/07" as the First Respondent's new company name on the companies register.

2.1.4. Costs Order in favour of the Applicant in terms of Regulation 156.

2.2. The Applicant has an interest in the name of the First Respondent within the meaning of Section 160(1) of the Act to file this Application to the Companies Act. The Applicant's interest will appear from the facts which were initiated and documented by the Applicant in its affidavit in particular the Applicants trademark rights in and to the GW trademark.

2.3. In terms of Regulation 143 the first respondent had until the 27th of February 2026 to serve and file its answer to the Applicant's Application, the deadline passed and no answer was served. The Application was served by the Deputy Sheriff of the High Court the 31st January 2026 at the registered address of the first respondent being Mjijwa Street, Zwile, Port Elizabeth, South Africa. The main Application was also served on the First Respondent electronically on the 29th of January 2026. The main Application was also served electronically on the 29th January 2026.

2.4. The first respondent had until the 27th February 2026 to file and serve its response to the main application, and to date no response has been filed.

2.5. I am satisfied that the applicant has made out a case for the main application to be considered by default against the First Respondent.

2.6. In support of this application the Applicant attached supporting affidavits for the default judgement in the names of **Nicole Yvonne Smalberger** and the main application the supporting affidavit of **Mark Ernst William Wilhelm** and **Jolene Louise Van Wyk** setting out the facts upon which the Applicant relies on both duly authorised by resolutions.

3. **BACKGROUND**

- 3.1. On the 6th October 2025 on becoming aware of the registration of the company GW Tyre Repairs (Pty) Limited (2025/023234/07) Applicant instructed its Attorneys to address a letter of demand to the First Respondent informing it of the Applicants rights under GW name and trademark.
- 3.2. On the 20th of October 2025 the Applicants Attorneys further addressed a letter granting an extension until the 24th of October 2025 to respond indicating that should the respondent be unwilling to cooperate, the Applicant would not have no option but to institute formal proceedings. .the Applicant's Attorneys made contact with the First Respondents Director, but their calls remained unanswered by the Director.
- 3.3. The Applicant has made a concerted effort in attempting to contact the Director of the Second Respondent and failure to respond to the letters of demand justifies the Application being brought against the First Respondent.
- 3.4. The Applicant has an interest in the First Respondents name within the meaning of section 160 of the Act as the name incorporates the Applicants mark **GW** In terms of Section 29(b) of the Trademark Act 194 of 1993 (hereinafter referred to as "the Trademarks Act"), the Applicant 's trademark rights are enforceable with effect from the date of filing of its trademark application. In terms of Section 29 of the Trademark Act, that date shall be deemed to be the date of registration.
- 3.5. The Applicant is therefore, the proprietor of the trademark **GW** which was registered long before the registration of the First Respondent in 1992 the Applicants **GW** trademarks where registered as early as 2000. The reference of the First Respondents name **GW Tyre Repairs (Pty) Limited** does not serve to distinguish from the Applicants **GW** trademark.
- 3.6. The mark **GW Tyre Repairs** is visually and phonetically identical to the Applicant's registered trademark GW. Members of the public who encounter the First Respondent are likely to believe that the First Respondent is the Applicant or associated with the Applicant. The Applicants proof of registration, copies of the Applicant's trademark associated with the certificates that were issued by the Registrar of Trademarks were annexed to the Applicants affidavit. These

trademark registrations are valid and in force and will hereinafter be referred to as the Applicants' **GW** trademark registrations.

3.7. The Applicants is the proprietor of the following trade marks in South Africa effective from the **1st December 2000**

3.7.1. **Trade Mark GW Registration No 2000/23929 Class 1**

3.7.2. **Trade Mark GW Registration No 2000/23930 Class 35**

3.7.3. **Trade Mark GW Registration No 2000/23931 Class 36**

3.7.4. **Trade Mark GW Registration No 2016/33063 Class 09**

3.8. As evidence of the above Trade Marks, the Applicant attached to their founding affidavit a print out from the Register of Trade Marks. The above trademarks are valid and in force. It is self-evident that the dominant element of the above trademarks is "**GW**" and that the Applicant has rights in this element of its trade marks.

4. **APPLICABLE LAW**

4.1. Section 160(1) of the companies 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".

4.2. Section 160(2)(b) of the Companies Act provides that:

"An application in terms of Subsection (1) may be made ... 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".

4.3. Sections 11(2) (a)(iii), 11 (2)(b)(iii); and 11(2)(c)(i) of the Companies Act, in as far as they are applicable, read as follows:

"(2) The name of a company must

(a) not be the same as –

- (i) ...
 - (ii) ...
 - (iii) *a registered trade mark belonging to a person other than the company or a mark in respect of which an application has been filed in the Republic for registration as a trade mark or a well-known trade mark as contemplated in section 35 of the Trade Marks Act, 1993 (Act No. 194 of 1993), unless the registered owner of that mark has consented in writing to the use of the mark as the name of the company.*
- (b) *not be confusingly similar to a name, trademark, mark, word, or expression contemplated in paragraph (a) unless-*
- (i) ...
 - (ii) ...
 - (iii) *in the case of a name similar to a trademark or mark referred to in paragraph (a)(iii), the company is the registered owner of the business name, trademark, or is authorised by the registered owner or to use it; or ...*
- (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...”*

4.4. The question is whether the First Respondent's name and the Applicant's trademark are confusingly similar as envisaged in Section 11(2)(b) (iii) read with Section 11 (2)(a)(iii) of the Companies Act.

4.5. The Company operates a vast variety of computer software, magnetic data carriers and other consumables including consultancy and scientific and technical services, surveys an exploration its registered trademarks and name are of exclusive use by the Applicants and also protected under the common law, and although the nature of the First Respondent's Company is not known or

clear, the use of the Applicant's name by the First Respondent is confusingly similar to the Applicant's name and trademarks. This elevates the risk of confusion between the Applicant's trademark and the First Respondent's name, products, and services in the marketplace.

4.6. I further agree the confusion and/or deception, can lead to injury to the Applicant's business. This is particularly so when it is taken into account that the Applicant has absolutely no control whatsoever on the quality and type of goods sold and services rendered by the Company.

4.7. The visual, phonetic, and conceptual similarities between the First Respondent's name and the Applicant's trademark may mislead or confuse others into believing that there is some authorised connection and/or association in the course of trade between the products and/or services offered by the First Respondent with those of the Applicant, when, from the evidence before me, that it not the case.

4.8. In **Plascon-Evans Paints (TVL) Ltd. V Van Riebeeck Paints (Pty) Ltd.** (**Plascon-Evans, CORBETT JA quoted** MARGO J, delivering the judgment in *International Power Marketing (Pty) Ltd v Searles Industrials (Pty) Ltd. 1983(4) SA 163 (T)*, as follows on the meaning of the words "as to be likely to deceive or cause confusion".

"the main legal principles relevant to the decision of the instant case may be briefly summarised as follows:-

*In an infringement action the onus is on the plaintiff to show the probability or likelihood of deception or confusion.... it is enough for the plaintiff to show that a substantial number of persons will probably be confused as to the origin of the goods or the existence or non-existence of such a connection ... **the comparison must be made with reference to the sense, sound and appearance of the marks.** The marks must be viewed as they would be encountered in the marketplace and against the background of relevant surrounding circumstances. **The marks must not only be considered side by side, but also separately. It must be***

borne in mind that the ordinary purchaser may encounter goods, bearing the defendant's mark, with an imperfect recollection of the registered mark and due allowance must be made for this. If each of the marks contains a main or dominant feature or idea the likely impact made by this on the mind of the customer must be taken into account. As it has been put, marks are remembered rather by general impressions or by some significant or striking feature than by a photographic recollection of the whole. And finally, consideration must be given to the manner in which the marks are likely to be employed as for example, the use of name marks in conjunction with a generic description of the goods".

4.9. CORBETT JA: stated further at paragraph 47 in Plascon Evans "...in my view, a purely verbal comparison is not enough. As I have said, in cases such as this the Court must transport itself to the marketplace and try to visualize how customers of the goods, in relation to which the marks are used, would react ".

5. FINDINGS

5.1. I find that the Applicant has shown good cause to bring this application under section 160 of the Companies Act.

5.2. I further find that the First Respondent's name is so confusingly similar to the Applicant's trade mark that it falsely implies or suggests that, or reasonably mislead a person to believe incorrectly, that the Company is part of, or associated with, the Applicant in contravention of section 11(2)(c) of the Companies Act.

5.3. Considering the conspectus of the case cited above and the guidance from the above case, I conclude that the First Respondent's name runs foul of the provisions of sections 11(2)(b)(iii) read with section 11(2)(a)(iii) and Section 11(2)(c) (i) of the Companies Act.

6. ORDER

I hereby grant the following relief by default judgement:

- 6.1. The First Respondent is ordered to change its name to one which does not consist of ,or incorporate, the mark **GW**, or any other mark which is confusingly and/or deceptively similar to the Applicant's **GW** trademark.
- 6.2. The Second Respondent is directed to change the name of the First Respondent to its registration number, in the event of the First Respondent not complying with point 6.1 above within 3 months from the date of this order; and
- 6.3. The Second Respondent notify the First Respondent within 14 days of this order.
- 6.4. No order as to costs.

H K Dlepu

Member or the Companies Tribunal