IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no.: **CT02608ADJ2026**

In the matter between:

ESSILOR SOUTH AFRICA (PTY) LTD	Applicant
and	
ESSILOR LUXOTTICA ENTERPRISE (PTY) LTD	First Respondent
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Second Respondent

Presiding member: Richard Bradstreet

Date of decision: 5 May 2026

DECISION (Reasons and Order)

1. This application concerns a company name objection brought in terms of section 160 of the Companies Act 71 of 2008 ("**the Act**"), in which the Applicant seeks a determination that the First Respondent's name does not satisfy the requirements of section 11 of the Act. The Applicant further seeks a default order in terms of regulation 153 of the Companies Regulations 2011,

the First Respondent having failed to file an answering affidavit in response to the application.

2. The Applicant is a long-established South African manufacturer of eyewear. It forms part of an international group of companies known as "EssilorLuxottica", which includes a number of South African affiliates, among them Luxottica Southern Africa (Pty) Ltd, Damar Optical (Pty) Ltd, and Rxpress Optical (Pty) Ltd. The First Respondent is a private company registered on 12 December 2025, whose registered name is "Essilor Luxottica Enterprise (Pty) Ltd" and whose business activities are recorded in the public records as "not restricted".

3. The Applicant contends that the First Respondent's name wholly incorporates both its own name and that of an affiliated company, Luxottica Southern Africa (Pty) Ltd, and corresponds to the well-known group identifier "EssilorLuxottica", with the result that the name is confusingly similar to the Applicant's and creates a misleading impression of association.

DEFAULT RELIEF

4. The application was filed with the Companies Tribunal on 18 February 2026. Service on the First Respondent was effected by the Sheriff on 19 February 2026, by handing a copy of the Notice of Motion, founding affidavit and annexures to a responsible employee at the First Respondent's registered address (1[…] M[…] Street, Bethlehem, Free State).

5. Service on the Second Respondent was effected by electronic mail on 17 February 2026 to the address corporatelegalservices@cipc.co.za. The First Respondent has not filed any answering affidavit, and the period of twenty business days prescribed for doing so lapsed on 19 March 2026.

6. I am satisfied that there has been adequate service, and thus compliance with regulation 153(2)(*b*). It also appears that the Applicant passes the "good cause" test in that a reasonable explanation is given as to why the application should be heard by the Tribunal, and there has been no undue delay in bringing the application.

APPLICABLE LEGAL FRAMEWORK

7. Section 160(1) of the Act provides that any person with an interest in the name of a company may apply to the Companies Tribunal for a determination whether the name satisfies the requirements of section 11. Such an application 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" (section 160(2)).

8. Section 11(2) of the Act provides, inter alia, that a company name must not:

(a) be the same as the name of another company, a registered trade mark belonging to another person, or a mark in respect of which an application has been filed for registration as a trade mark in the Republic;

(b) be confusingly similar to such a name, trade mark or mark; or

(c) falsely imply or suggest, or be such as would reasonably mislead a person to believe incorrectly, that the company is part of or associated with another person.

Confusing similarity

9. "Similar" in section 11(2)(*b*) means "having a marked resemblance or likeness", and the offending name should immediately bring to mind the well-known trade mark or other name (*Bata Ltd v Face Fashions CC* 2001 (1) SA 844 (SCA)).

10. Whether there is a confusing similarity involves a value judgment (*Cowbell AG v ICS Holdings* 2001 (3) SA 941 (SCA) para 10), and presupposes that the names are to be used together in a normal and fair manner, in the ordinary course of business (*SmithKline Beecham Consumer Brands (Pty) Ltd v Unilever plc* 1995 (2) SA 903 (A) at 912H).

11. In particular, one must ask whether there is "a reasonable likelihood that ordinary members of the public, or a substantial section thereof, may be

confused or deceived into believing" that the goods or services of one are those of the other or are connected therewith (*Adidas AG & another v Pepkor Retail Limited* (187/12) [2013] ZASCA 3 (28 February 2013) para 28; *Capital Estate and General Agencies (Pty) Ltd v Holiday Inns Inc* 1977 (2) SA 916 (A) at 929).

12. The comparison must be made by reference to how the names will be perceived by the "ordinary reasonable careful man, i.e. not the very careful man nor the very careless man" (*Link Estates (Pty) Ltd v Rink Estates (Pty) Ltd* 1979 (2) SA 276 (E) at 280), bearing in mind that the comparison is not undertaken with the two names presented side by side, and that allowance must be made for the ordinary imperfections of human memory (the doctrine of imperfect recollection: *Ewing t/a The Buttercup Dairy Company v Buttercup Margarine Corporation Ltd* 1917 (34) RPC 225 at 232 and 238).

13. The names "must be viewed as they would be encountered in the marketplace and against the background of relevant surrounding circumstances" (*Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 640G–641E), with regard to "the class of persons who are likely to be the purchasers of the goods in question" (*Reckitt & Colman SA (Pty) Ltd v SC Johnson & Son SA (Pty) Ltd* 1993 (2) SA 307 (A) at 315F–G).

ANALYSIS

14. The Applicant relies on its registered company name "Essilor South Africa (Pty) Ltd", which was registered on 4 December 1990 under registration number 1990/007254/07, and under which it has traded as a manufacturer in the eyewear industry for some thirty-five years prior to the registration of the First Respondent. It also relies on its association with Luxottica Southern Africa (Pty) Ltd and on the well-known international group identifier "EssilorLuxottica", under whose flag the Applicant and its South African affiliates operate. Annexed to the founding papers is evidence that searches for the name "Essilor Luxottica Enterprise (Pty) Ltd" return results referring to the Applicant and its international group, and not to the First Respondent.

15. The First Respondent's name consists of three elements: "Essilor", "Luxottica" and "Enterprise". The first two elements are incorporated in their entirety from identifiers belonging to or associated with the Applicant. "Essilor" is the dominant and distinctive element of the Applicant's own registered company name. "Luxottica" is the dominant and distinctive element of the name of the associated company, Luxottica Southern Africa (Pty) Ltd, and the two together ("EssilorLuxottica") comprise the global identifier of the group of which the Applicant forms part. The third element, "Enterprise", is a generic descriptor that does no work to distinguish the impugned name from the Applicant's identifiers. It is the kind of word that may be appended to almost any business name without altering its commercial impression.

16. Both “Essilor” and “Luxottica” are invented words. Neither has any descriptive content in English, and neither could plausibly have been arrived at independently. This is not a case in which the Applicant seeks to monopolise the ordinary use of common English words; it is a case in which the First Respondent has incorporated, without authorisation, two distinctive coined words that are recognisable identifiers of an established multinational eyewear group with a substantial South African presence. The distinctiveness of an invented word, when placed at the front and centre of a composite name, sharply narrows the scope for an ordinary reasonable person to read the name as anything other than a reference to the entity to which the invented word belongs.

17. Viewed as a whole, and as it would be encountered in the marketplace (*Plascon-Evans* supra), the First Respondent’s name does not merely resemble the Applicant’s name and that of its sister company; it reproduces both, in sequence, exactly as they appear in the international group’s identifier. An ordinary reasonable person, with the imperfect recollection contemplated by Ewing supra, encountering the name “Essilor Luxottica Enterprise (Pty) Ltd” on an invoice, signage, or in correspondence, would be very likely to conclude that the entity is part of, an extension of, or otherwise associated with, the Applicant’s group. That conclusion would be reinforced rather than dispelled by the addition of the word “Enterprise”, which reads as a sub-brand or operational designation rather than as an independent source identifier.

18. The contextual factors point in the same direction. The First Respondent's recorded business activities are unrestricted, and on the public records there is no indication of the field in which it intends to operate. In those circumstances the most natural inference for a person encountering the name is that it operates in the field associated with "EssilorLuxottica" – that is, eyewear and related vision-care products and services. Such a person, falling within the broad class of persons whose perception is relevant to the inquiry under section 11(2)(*b*), is likely to assume some connection between the First Respondent and the Applicant's group.

19. Taking these considerations together, and applying the value judgment required by *Cowbell* supra, I am satisfied that the First Respondent's name is confusingly similar to the Applicant's company name, contrary to section 11(2)(*b*) of the Act.

20. It follows, in my view, that section 11(2)(*c*)(i) is also contravened. The wholesale incorporation of two distinctive identifiers belonging to or associated with the Applicant – combined into a sequence that mirrors the well-known international group name – is such as would reasonably mislead a person to believe incorrectly that the First Respondent is a part of, or otherwise associated with, the Applicant. Such a belief would be incorrect. The First Respondent's name therefore does not satisfy the requirements of the Act.

ORDER

21. In the result, I make the following order:

(a) The application for default relief is granted.

(b) The First Respondent is directed to:

(i) change its name to one which neither incorporates “Essilor” nor “Luxottica”, nor any word or phrase confusingly similar to either, and which does not otherwise imply an association with the Applicant or the EssilorLuxottica group of companies, and

(ii) file a notice of amendment to its Memorandum of Incorporation within 3 (three) months of the date of this order.

(c) In the event that the First Respondent fails to comply with paragraph (b) above, the Second Respondent is directed to substitute the First Respondent’s registration number as its interim company name.

(d) the Tribunal’s Recording Officer (Registrar) is directed to serve this order on the First and Second Respondents.

Richard Bradstreet

Member of the Companies Tribunal

5 May 2026