



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no.: **CT02574ADJ2026**

In the matter between:

NATIONAL BRANDS LIMITED

Applicant

and

JUMPIN JACK PIMPIN RIDES (PTY) LTD

First Respondent

**COMMISSIONER OF THE 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 National Brands Limited, a wholly-owned subsidiary of AVI Limited, and the proprietor of the registered trade mark JUMPIN JACK and a number of related marks incorporating the JUMPIN JACK identifier, all registered in class 30 in respect of, *inter alia*, popcorn and other foodstuffs. The Applicant is one of South Africa's larger fast-moving consumer goods businesses, and its JUMPIN JACK popcorn products are marketed nationally through major retailers under its Baker Street Snacks and Willards divisions.
3. The First Respondent is Jumpin Jack Pimpin Rides (Pty) Ltd, a private company incorporated under the Act on 28 August 2025, with its registered address at 69 Shady Avenue, Chatsworth, Durban. The First Respondent's business activities are not specified in the Applicant's papers and have not been disclosed in any answering affidavit, none having been filed. The Second Respondent is the Companies and Intellectual Property Commission, cited in its capacity as the custodian of the companies register.

DEFAULT RELIEF

4. The application papers were served on the First Respondent on or about 29 January 2026 by email to the address recorded for the First Respondent's director (with whom the Applicant's attorneys had previously corresponded), and a sheriff's return of service dated 3 February 2026 confirms personal service at the registered address. No answering affidavit has been filed and the time period prescribed for doing so has long expired. I am satisfied that there has been adequate service in compliance with regulation 153(2)(b), and that the matter properly proceeds on an unopposed basis.

APPLICABLE LEGAL FRAMEWORK

5. 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)).
6. 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

7. “Similar” in section 11(2)(b) means “having a marked resemblance or likeness” (*Bata Ltd v Face Fashions CC* 2001 (1) SA 844 (SCA)), and the offending name should immediately bring to mind the well-known trade mark or other name.
8. 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).

9. 9. 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).
10. 10. 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, sometimes referred to as 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).
11. Regard must also be had 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), and 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).

EVALUATION / ANALYSIS

12. The Applicant places before the Tribunal evidence of registrations for the trade mark JUMPIN JACK across a number of classes, together with evidence directed at showing longstanding and extensive use of, and reputation in, the

mark in South Africa, including its presence in the country's major retailers and on the Applicant's digital and social media platforms.

13. The Applicant also places before the Tribunal evidence of its proprietorship of five trade mark registrations in class 30, all of which incorporate the words JUMPIN JACK. The earliest, and most directly relevant for present purposes, is registration number 1993/01782 for the word mark JUMPIN JACK, with a filing date of 9 March 1993 and a registration date of 18 February 1997. The other four registrations comprise extensions of that core mark – JUMPIN JACK GOURMET POPCORN (word and logo), the JUMPIN JACK logo on its own, and the JUMPIN JACK packaging design – all in the same class and covering substantially the same range of foodstuffs.
14. The Applicant has used the JUMPIN JACK mark in respect of popcorn products in South Africa for some three decades, and has placed before the Tribunal printouts from major retail platforms (including Pick n Pay, Checkers, Game, Makro, Shoprite, Takealot and Dischem), social media references, and a Google search confined to the South African result set, all of which point to the JUMPIN JACK mark being one which the South African popcorn-buying public would readily associate with the Applicant.
15. An important feature of the registered mark is its deliberately unusual spelling. The mark is "JUMPIN JACK" – without a "g" at the end of the first word, and without an apostrophe. That is not the ordinary English present participle "jumping". The word as registered is an invented or stylised form, and the distinctiveness of the mark lies in part in that stylisation. Protection has been

granted in the precise stylised composite “JUMPIN JACK” and not two English distinct English words.

16. The First Respondent’s name is “Jumpin Jack Pimpin Rides (Pty) Ltd”. The first observation is that the name reproduces the Applicant’s registered word mark “JUMPIN JACK” in its entirety, in the exact stylised form (without the “g”), and as the leading element of the company name. There is therefore no question of similarity between the two: the Applicant’s mark is wholly incorporated as the first two words of the impugned name.
17. The remaining element, “Pimpin Rides”, does not dispel the link. The expression mirrors the same unusual “-in” elision (replacing “Pimping”) that distinguishes the Applicant’s mark. This would only serve to reinforce the impression that the entire name has been constructed in the style of the Applicant’s brand. More importantly, “Pimpin Rides” reads as a separate descriptor sitting beneath the JUMPIN JACK source identifier, in much the way that any sub-brand, product line or trading style reads beneath a parent mark. To a notional ordinary member of the public encountering the company name in commerce, the name is structured to read as “JUMPIN JACK – Pimpin Rides”, in the sense that “Pimpin Rides” describes a particular activity or offering operating under the JUMPIN JACK source identifier.
18. Although “Pimpin Rides” does suggest an entirely different field of activity to popcorn in that it points loosely toward motor vehicles, customisation, or related entertainment-style services, the relevant inquiry for the present purpose is whether the impugned name is confusingly similar to the Applicant’s mark (section 11(2)(b)), and/or whether the name would reasonably mislead a person

into believing that the First Respondent is associated with the Applicant (section 11(2)(c)(i)). The fact that the parties operate, or may in future operate, in different commercial fields does not, without more, preclude either inquiry from being answered in the Applicant's favour.

19. On the question of confusing similarity, the test in *Plascon-Evans* contemplates a comparison having regard to the marketplace perception of the average customer. The relevant likely customer here, for purposes of the JUMPIN JACK mark, is the South African popcorn-buying consumer who has encountered the Applicant's product on supermarket shelves, in social media advertising and in the everyday snack market. Such a person, encountering the name "JUMPIN JACK PIMPIN RIDES" in the ordinary course – on a vehicle, an invoice, a social media page – is not engaged in side-by-side dissection of the words, but is operating with an imperfect recollection of the two names/marks. Such a person's attention is most likely to be drawn to "JUMPIN JACK". The remaining element will at best register as a sub-brand or trading style.
20. The matter is reinforced by a particular feature of the Applicant's evidence: a Google search for "JUMPIN JACK SOUTH AFRICA" returns results which all relate to the Applicant's products. The unusual spelling means that the words "JUMPIN JACK", in that compound form, function in the South African market as a virtually unique source identifier for the Applicant. To select that exact compound mark, in that exact spelling, as the leading element of an unrelated company name is to anchor the company in the public's existing understanding of who or what "JUMPIN JACK" is.

21. As Greenberg JA observed in *American Chicle Co 1948* (2) SA 736 (A) at 744:

“the Court must . . . have regard to the position of a person who might at one time see or hear one of the marks and later, possibly with an imperfect recollection of that mark, come across the other mark”.
22. A person who has previously seen JUMPIN JACK on popcorn packaging is, in my view, reasonably likely later to encounter “JUMPIN JACK PIMPIN RIDES” and to assume some connection between the two.
23. The fact that the parties’ areas of trade do not currently coincide does not, on its own, preclude relief. In *Capital Estate and General Agencies (Pty) Ltd v Holiday Inns Inc* (supra) at 929, Rabie JA observed that the absence of a common field of activity is “a factor which one has to take into account”, but went on to hold that “it cannot be suggested that the absence of a common field of activity will always be sufficient to bar a party from obtaining relief”.
24. The crucial question remains whether there is a reasonable likelihood of confusion. In the present case, the strength and reputation of the JUMPIN JACK mark, the unique spelling, the reproduction of the entire mark as the leading element of the impugned name, and the fact that the First Respondent has not chosen to specify or constrain its trading activities, together produce a reasonable likelihood that members of the public will assume that the First Respondent operates with the Applicant’s authorisation, or as a related undertaking, when neither is the case.
25. 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 registered trade mark JUMPIN JACK, contrary to section 11(2)(b) of the Act.

26. For substantially the same reasons, section 11(2)(c)(i) is also contravened. Faced with the name "Jumpin Jack Pimpin Rides (Pty) Limited", a member of the public familiar with the Applicant's well-established JUMPIN JACK brand is reasonably likely to draw the inference that the First Respondent is part of, or licensed by, or otherwise associated with, the Applicant – whether as a related venture, a brand extension or a co-branded promotional activity. That inference would be incorrect. The First Respondent's name is therefore such as would reasonably mislead a person into believing incorrectly that it is associated with the Applicant.
27. The Applicant has also asked for an order as to costs in terms of regulation 156. The Tribunal's power to award costs is sparingly exercised, and is generally reserved for cases of misconduct or abuse of process by a respondent. While the First Respondent's failure to engage substantively with the Applicant's correspondence (beyond a single brief WhatsApp message in November 2025 indicating an intention to consult its accountant, which was never followed through) has caused inconvenience and expense, I do not, on the papers before me, regard the First Respondent's conduct as crossing the threshold that would ordinarily justify an adverse costs order.

ORDER

28. In the result, I make the following order:
- (a) The application for default relief is granted.

- (b) The First Respondent is directed to:
- (i) the First Respondent is directed to change its name to one which neither incorporates, nor is confusingly similar to, the Applicant's JUMPIN JACK trade mark, and which does not otherwise imply an association between it and the Applicant and/or its business operations; 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